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STATE OF NEW MEXICO

BOARD OF LICENSURE FOR

PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS

www.sblpes.state.nm.us

ENGINEERING AND SURVEYING PRACTICE ACT

SECTIONS 61-23-1 THROUGH 61-23-33 NMSA, 1978



July 1, 2012

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ENGINEERING AND SURVEYING PRACTICE ACT

61-23-1. SHORT TITLE.-- Chapter 61, Article 23 NMSA 1978 may be cited as the "Engineering and Surveying Practice Act".

61-23-2. DECLARATION OF POLICY.

The legislature declares that it is a matter of public safety, interest and concern that the practices of engineering and surveying merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practices of engineering and surveying. In order to safeguard life, health and property and to promote the public welfare, any person in either public or private capacity practicing or offering to practice engineering or surveying shall be required to submit evidence that he is qualified to so practice and shall be licensed as provided in the Engineering and Surveying Practice Act. It is unlawful for any person to practice, offer to practice, engage in the business, act in the capacity of, advertise or use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional, licensed engineer or surveyor unless that person is licensed or exempt under the provisions of the Engineering and Surveying Practice Act [Chapter 61, Article 23 NMSA 1978]. A person who engages in the business or acts in the capacity of a professional engineer or professional surveyor in New Mexico, except as otherwise provided in Sections 61-23-22 and 61-23-27.10 NMSA 1978, with or without a New Mexico license, has thereby submitted to the jurisdiction of the state and to the administrative jurisdiction of the board and is subject to all penalties and remedies available for a violation of any provision of Chapter 61, Article 23 NMSA 1978. The practice of engineering or surveying shall be deemed a privilege granted by the board based on the qualifications of the individual as evidenced by the licensee's certificate, which shall not be transferable.

61-23-3. DEFINITIONS.

As used in the Engineering and Surveying Practice Act [61-23-1 NMSA 1978]:

- A.** "approved" or "approval" means acceptable to the board;
- B.** "board" means the state board of licensure for professional engineers and professional surveyors;
- C.** "conviction" or "convicted" means a final adjudication of guilt, whether pursuant to a plea of nolo contendere or otherwise and whether or not the sentence is deferred or suspended;
- D.** "engineer" means a person who is qualified to practice engineering by reason of the person's intensive preparation and knowledge in the use of mathematics, chemistry, physics and engineering sciences, including the principles and methods of engineering analysis and design acquired by professional education and engineering experience;
- E.** "engineering", "practice of engineering" or "engineering practice" means any creative or engineering work that requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such creative work as consultation, investigation, forensic investigation, evaluation, planning and design of engineering works and systems, expert technical testimony, engineering studies and the review of construction for the purpose of assuring substantial compliance with drawings and specifications; any of which embrace such creative work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, chemical, pneumatic, environmental or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering work. The "practice of engineering" may include the use of photogrammetric methods to derive topographical and other data. The "practice of engineering" does not include responsibility for the supervision of construction, site conditions, operations, equipment, personnel or the maintenance of safety in the work place;
- F.** "engineering committee" means a committee of the board entrusted to implement all business of the Engineering and Surveying Practice Act as it pertains to the practice of engineering, including the promulgation and adoption of rules of professional responsibility for professional engineers exclusive to the practice of engineering;
- G.** "engineer intern" means a person who has qualified for, taken and passed an examination in the fundamental engineering subjects as provided in the Engineering and Surveying Practice Act;
- H.** "fund" means the professional engineers' and surveyors' fund;

- I.** "incidental practice" means the performance of other professional services that are related to a licensee's work as an engineer;
- J.** "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or a legal or commercial entity;
- K.** "professional development" means education by a licensee in order to maintain, improve or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge to maintain licensure;
- L.** "professional engineer", "consulting engineer", "licensed engineer" or "registered engineer" means a person who is licensed by the board to practice the profession of engineering;
- M.** "responsible charge" means responsibility for the direction, control and supervision of engineering or surveying work, as the case may be, to assure that the work product has been critically examined and evaluated for compliance with appropriate professional standards by a licensee in that profession, and by sealing or signing the documents, the professional engineer or professional surveyor accepts responsibility for the engineering or surveying work, respectively, represented by the documents and that applicable engineering or surveying standards have been met;
- N.** "surveying", "practice of surveying" or "surveying practice" means any service or work, the substantial performance of which involves the application of the principles of mathematics and the related physical and applied sciences for:
- (1) the measuring and locating of lines, angles, elevations and natural and man-made features in the air, on the surface of the earth, within underground workings and on the beds or bodies of water for the purpose of defining location, areas and volumes;
 - (2) the monumenting of property boundaries and for the platting and layout of lands and subdivisions;
 - (3) the application of photogrammetric methods used to derive topographic and other data;
 - (4) the establishment of horizontal and vertical controls that will be the basis for all geospatial data used for future design surveys, including construction staking surveys, surveys to lay out horizontal and vertical alignments, topographic surveys, control surveys for aerial photography for the collection of topographic and planimetric data using photogrammetric methods, and construction surveys of engineering and architectural public works projects; and
 - (5) the preparation and perpetuation of maps, records, plats, field notes and property descriptions;
- O.** "surveying committee" means a committee of the board entrusted to implement all business of the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] as it pertains to the practice of surveying, including the promulgation and adoption of rules of professional responsibility for professional surveyors exclusive to the practice of surveying;
- P.** "surveyor" or "professional surveyor" means a person who is qualified to practice surveying by reason of the person's intensive preparation and knowledge in the use of mathematics, physical and applied sciences and surveying, including the principles and methods of surveying acquired by education and experience, and who is licensed by the board to practice surveying;
- Q.** "surveyor intern" means a person who has qualified for, taken and passed an examination in the fundamentals of surveying subjects as provided in the Engineering and Surveying Practice Act;
- R.** "surveying work" means the work performed in the practice of surveying; and
- S.** "supplemental surveying work" means surveying work performed in order to densify, augment and enhance previously performed survey work or site information but excludes the surveying of real property for the establishment of land boundaries, rights of way, easements and the dependent or independent surveys or resurveys of the public land system. The board shall recognize that there may be occasions when professional engineers need to obtain supplemental survey information for the planning and design of an engineering project. A licensed professional engineer who has primary engineering responsibility and control of an engineering project may perform supplemental surveying work in obtaining data incidental to that project. Supplemental surveying work may be performed by a licensed professional engineer only on a project for which the engineer is providing engineering design services.

61-23-4. CRIMINAL OFFENDER'S CHARACTER EVALUATION.

The provisions of the Criminal Offender Employment Act [28-2-1 to 28-2-6 NMSA 1978] shall govern any consideration of criminal records required or permitted by the Engineering and Surveying Practice Act.

61-23-5. STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS -- MEMBERS -- TERMS.

A. There is created the "state board of licensure for professional engineers and professional surveyors" that shall consist of five licensed professional engineers, at least one of whom shall be in engineering education, three licensed professional surveyors and two public members.

B. The members of the board shall be appointed by the governor for staggered terms of five years. The appointees shall have the qualifications required by Section 61-23-6 NMSA 1978. The appointments shall be made in such a manner that the terms of not more than two members expire in each year. Each member of the board shall receive a certificate of appointment from the governor. Before the beginning of the term of office, the appointee shall file with the secretary of state a written oath or affirmation for the faithful discharge of official duty. A member of the board may be reappointed but may not serve more than two consecutive full terms. A member shall not be reappointed to the board for at least two years after serving two consecutive full terms. The board may designate any former board member to assist it in an advisory capacity.

C. Each member may hold office until the expiration of the term for which appointed or until a successor has been duly qualified and appointed. In the event of a vacancy for any cause that results in an unexpired term, if not filled within three months by official action, the board may appoint a provisional member to serve until the governor acts. Vacancies on the board shall be filled by appointment by the governor for the balance of the unexpired term.

61-23-6. BOARD MEMBERS -- QUALIFICATIONS.

A. Each engineer member of the board shall be a citizen of the United States and a resident of New Mexico. Each shall have been engaged in the lawful practice of engineering as a professional engineer for at least ten years, including responsible charge of engineering projects for at least five years as a professional engineer licensed in New Mexico, or engaged in engineering education for at least ten years, including responsible charge of engineering education for at least five years, and shall be a professional engineer licensed in New Mexico.

B. Each surveyor member of the board shall be a citizen of the United States and a resident of New Mexico. Each shall have been engaged in the lawful practice of surveying as a professional surveyor for at least ten years, including responsible charge of surveying projects for at least five years as a professional surveyor licensed in New Mexico.

C. Each public member shall be a citizen of the United States, a resident of New Mexico, shall not have been licensed nor be qualified for licensure as an engineer, surveyor, architect or landscape architect and shall not have any significant financial interest, direct or indirect, in the professions regulated.

61-23-7. REIMBURSEMENT OF BOARD MEMBERS.

Each member of the board shall receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

61-23-8. REMOVAL OF MEMBERS OF BOARD.

The governor may remove, after notice and hearing, any member of the board for misconduct, incompetency, neglect of duty, malfeasance in office or for any reason prescribed by law for removal of state officials.

61-23-9. BOARD -- ORGANIZATION -- MEETINGS.

A. There shall be an "engineering committee" composed of the five members of the board who serve as licensed professional engineers and one of the public members, who shall be appointed to the committee by the board. The engineering committee shall meet in conjunction with all board meetings. The bylaws or rules of the board shall provide a procedure for giving notice of all meetings and for holding special and emergency meetings. A quorum of the committee shall be a majority of the committee. In the event of a lack of a quorum and at the request of the committee, other board members may be substituted for a non-attending member in order to have a quorum. The committee shall elect a chair and vice chair from the committee members at the last committee meeting prior to July 1 of each year.

B. There shall be a "surveying committee" composed of the three members of the board who serve as licensed professional surveyors and one of the public members, who shall be appointed to the committee by the board. The surveying committee shall meet in conjunction with all board meetings. The bylaws or rules of the board shall provide a procedure for giving notice of all meetings and for holding special and emergency meetings. A quorum of the committee shall be a majority of the committee. In the event of a lack of a quorum and at the request of the committee, other board members may serve on this committee. The committee shall elect a chair and vice chair from the committee members at the last committee meeting prior to July 1 of each year.

C. All matters that come before the board that pertain exclusively to engineering or exclusively to surveying shall be referred to the respective committee for disposition. The committee action on such matters shall be the action of the board. Committee actions shall be reported to the board.

D. There shall be a joint engineering and surveying standing committee of the board composed of two members from the professional engineering committee, the public member and the chair, and two members from the professional surveying committee, the public member and the chair. If the public member is currently the chair of either committee, the vice chair will serve as the professional member on the standing committee.

E. The board shall hold at least four regular meetings each year. At least one meeting shall be held at the state capitol. The bylaws or rules of the board shall provide procedures for giving notice of all meetings and for holding special meetings. The board shall elect annually a chair, a vice chair and a secretary, who shall be members of the board. A member of the board shall not be elected to the same office for more than two consecutive years. A quorum of the board shall be a majority of the board. Any board member failing to attend three consecutive regular meetings is automatically removed as a member of the board. The board shall have an official seal.

61-23-10. DUTIES AND POWERS OF THE BOARD.

A. It shall be the duty of the board to administer the provisions of the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] and to exercise the authority granted the board in that act. The board is the sole state agency with the power to certify the qualifications of professional engineers and professional surveyors. The board is authorized to engage such personnel, including an executive director, as it may deem necessary.

B. The board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying. All such bylaws and rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act.

C. The professional engineering committee shall adopt and promulgate rules of professional responsibility exclusive to the practice of engineering. All such bylaws and rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act.

D. The professional surveying committee shall adopt and promulgate rules of professional responsibility exclusive to the practice of surveying. All such bylaws and rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act.

E. The joint engineering and surveying standing committee shall have the exclusive authority over practice disputes between engineers and surveyors to determine if any proposed rules of professional responsibility are exclusive to the practice of engineering or exclusive to the practice of surveying so that rulemaking authority is delegated to the engineering committee or to the surveying committee. Determination of exclusive practice of engineering or surveying requires an affirmative vote by no less than three members of the committee. If an affirmative vote of three members cannot be achieved, the determination of exclusivity shall be made by the full board.

F. To effect the provisions of the Engineering and Surveying Practice Act, the board may, under the chair's hand and the board's seal, subpoena witnesses and compel the production of books, papers and documents in any disciplinary action against a licensee or a person practicing or offering to practice without licensure. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person refuses to obey any subpoena so issued or refuses to testify or produce any books, papers or

documents, the board may apply to a court of competent jurisdiction for an order to compel the requisite action. If any person willfully fails to comply with such an order, that person may be held in contempt of court.

G. The board may apply for injunctive relief to enforce the provisions of the Engineering and Surveying Practice Act or to restrain any violation of that act. The members of the board shall not be personally liable under this proceeding.

H. The board may subject an applicant for licensure to such examinations as it deems necessary to determine the applicant's qualifications.

I. The board shall create enforcement advisory committees composed of licensees as necessary. Each committee shall include at least four licensees in the same category as the respondent. An engineering enforcement advisory committee shall have at least one licensee in the same branch as the respondent. Enforcement advisory committees shall provide technical assistance to the board and its staff. The board shall select members from a list of volunteers submitting their resumes and letters of interest.

J. No action or other legal proceedings for damages shall be instituted against the board, any board member or an agent, an employee or a member of an advisory committee of the board for any act done in good faith and in the intended performance of any power or duty granted pursuant to the Engineering and Surveying Practice Act or for any neglect or default in the good faith performance or exercise of any such power or duty.

K. The board, in cooperation with the board of examiners for architects and the board of landscape architects, shall create a joint standing committee to be known as the "joint practice committee". In order to safeguard life, health and property and to promote the public welfare, the committee shall have as its purpose the promotion and development of the highest professional standards in design, planning and construction and the resolution of ambiguities concerning the professions. The composition of the committee and its powers and duties shall be in accordance with identical resolutions adopted by each board.

L. As used in the Engineering and Surveying Practice Act, "incidental practice" shall be defined by identical rules of the board and the board of examiners for architects.

61-23-11. RECEIPTS AND DISBURSEMENT-- FUND CREATED.

A. The "professional engineers' and surveyors' fund" is created in the state treasury. The executive director of the board shall receive and account for all money received under the provisions of the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] and shall pay that money to the state treasurer for deposit in the fund. Money in this fund shall be paid out only by warrant of the secretary of finance and administration upon the state treasurer, upon itemized vouchers approved by the chairman and attested by the executive director of the board. All money in the fund is appropriated for the use of the board. Earnings from investment of the fund shall accrue to the credit of the fund.

B. The executive director of the board shall give a surety bond to the state in such sum as the board may determine. The premium on the bond shall be regarded as a proper and necessary expense of the board and shall be paid out of the fund.

C. The board may make expenditures of the fund for any purpose that in the opinion of the board is reasonably necessary for the proper performance of its duties pursuant to the Engineering and Surveying Practice Act, including the expenses of the board's delegates to the conventions of, and for membership dues to, the national council of examiners for engineering and surveying and any of its subdivisions or any other body of similar purpose.

61-23-12. RECORDS AND REPORTS.

A. The board shall keep a record of its proceedings and a register of all applications for licensure, indicating the name, age and residence of each applicant, the applicant's educational and other qualifications, whether an examination was required, whether the applicant was rejected, whether a certificate of licensure was granted, the date of the action of the board and such other information as may be deemed necessary by the board. The record and register shall be open to public inspection.

B. The following board records and papers are of a confidential nature and are not public records:

- (1) examination material for examinations not yet given;
- (2) file records of examination problem solutions;
- (3) letters of inquiry and reference concerning applicants;
- (4) board inquiry forms concerning applicants;

(5) investigation files where any investigation is ongoing or is still pending; and

(6) all other materials of like confidential nature.

C. The records of the board shall be prima facie evidence of the proceedings of the board set forth in those records, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same effect as if the original were produced.

D. Annually, on or before August 30, the board shall submit to the governor a report of its transactions of the preceding year, accompanied by a complete statement of the receipts and expenditures of the board attested by affidavits of the board's chairman, secretary and executive director.

61-23-13. ROSTER OF LICENSED PROFESSIONAL ENGINEERS AND SURVEYORS.

A roster showing the names and addresses of all licensed professional engineers and professional surveyors shall be maintained by the board and shall be placed on file with the secretary of state and the state commission of public records and made available to the public.

61-23-14. CERTIFICATION AS AN ENGINEER INTERN -- REQUIREMENTS.

A. An applicant for certification as an engineer intern shall file the appropriate application that demonstrates that the applicant:

(1) is of good moral character and reputation;

(2) has obtained at least a senior status in a board-approved, four-year curriculum in engineering or in a board-approved, four-year curriculum in engineering technology that is accredited by the technical accreditation commission of the accreditation board for engineering and technology; and

(3) has three references, one of whom shall be a licensed professional engineer.

B. After acceptance of the application by the board, the applicant shall be allowed to take the appropriate examination for certification as an engineer intern.

C. An applicant may be certified as an engineer intern upon successfully completing the examination, provided that the applicant has:

(1) graduated from a board-approved, four-year engineering curriculum; or

(2) graduated from a board-approved, four-year engineering technology program accredited by the technical accreditation commission of the accreditation board for engineering and technology, augmented by at least two years of board-approved, post-graduate engineering experience.

D. The certification as engineer intern does not permit the intern to practice as a professional engineer. Certification as an engineer intern is intended to demonstrate that the intern has obtained certain skills in engineering fundamentals and is pursuing a career in engineering.

61-23-14.1. LICENSURE AS A PROFESSIONAL ENGINEER; REQUIREMENTS.

A. Licensure as a professional engineer may be either through examination or through endorsement or comity. In either case, an applicant shall file the appropriate application in which it shall be demonstrated that the applicant:

(1) is of good moral character and reputation;

(2) has five references, three of whom shall be licensees practicing in the branch of engineering for which the applicant is applying and who have personal knowledge of the applicant's engineering experience and reputation. The use of nonlicensed engineer references having personal knowledge of the applicant's engineering experience and reputation other than professional engineers may be accepted by the board; provided that a satisfactory written explanation is given.

B. An applicant may be licensed through examination if the applicant can demonstrate the following:

(1) the applicant is certified as an engineer intern and has at least one of the following:

(a) received a bachelor's degree in an engineering discipline recognized by the board from a board-approved engineering curriculum and has four years of engineering experience subsequent to receiving the degree;

(b) received a master's degree in an engineering discipline recognized by the board from a board-approved engineering curriculum and has at least three years of engineering experience subsequent to receiving the degree;

(c) received a doctorate degree in an engineering discipline recognized by the board from a board-approved engineering curriculum and has at least two years of engineering experience subsequent to receiving the degree; or

(d) at least six years of board-approved engineering experience after graduation from a school offering a board-approved, four-year engineering technology curriculum accredited by the technology accreditation commission of the accreditation board for engineering and technology, including the two years for engineer intern certification; or

(2) the applicant is not certified as an engineer intern and has at least one of the following:

(a) received a bachelor's degree in an engineering discipline recognized by the board from a board-approved engineering curriculum and has twelve years of engineering experience subsequent to receiving the degree;

(b) received a master's degree in an engineering discipline recognized by the board from a board-approved engineering curriculum and has at least six years of engineering experience subsequent to receiving the degree; or

(c) received a doctorate degree in an engineering discipline recognized by the board from a board-approved engineering curriculum and has at least four years of engineering experience subsequent to receiving the degree.

C. Upon successfully completing the examination, required experience and all the requirements as noted in this section, the applicant shall be eligible to be licensed as a professional engineer upon action of the board.

D. An applicant may be licensed by endorsement or comity if the applicant:

(1) is currently licensed as an engineer in the District of Columbia, another state, a territory or a possession of the United States, provided the licensure does not conflict with the provisions of the Engineering and Surveying Practice Act and that the standards required by the licensure or the applicant's qualifications equaled or exceeded the licensure standards in New Mexico at the time the applicant was initially licensed; or

(2) is currently licensed as an engineer in a foreign country and can demonstrate, to the board's satisfaction, evidence that the licensure was based on standards that equal or exceed those currently required for licensure by the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] and can satisfactorily demonstrate to the board competence in current engineering standards and procedures.

61-23-15., 61-23-16. Repealed.

61-23-17. APPLICATION AND EXAMINATION FEES.

A. All applicants for licensure pursuant to the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] shall apply for examination, licensure or certification on forms prescribed and furnished by the board. Applications shall be accompanied by the appropriate fee, any sworn statements the board may require to show the applicant's citizenship and education, a detailed summary of the applicant's technical work and appropriate references.

B. All application, reapplication, examination and reexamination fees shall be set by the board and shall not exceed the actual cost of carrying out the provisions of the Engineering and Surveying Practice Act. No fees shall be refundable.

C. Any application may be denied for fraud, deceit, conviction of a felony or ~~for~~ any crime involving moral turpitude.

61-23-18. ENGINEERING -- EXAMINATIONS.

The examinations for engineering certification and licensure shall be held at least once a year at a time and place the board directs. The engineering committee shall determine the passing grade on examinations.

61-23-19. ENGINEERING -- LICENSE -- SEALS.

A. The board shall issue licenses pursuant to the provisions of the Engineering and Surveying Practice Act [this article]. The board shall provide for the proper authentication of all documents.

B. The board shall regulate the use of seals.

C. An engineer shall have the right to engage in activities properly classified as architecture insofar as it is incidental to the engineer's work as an engineer, provided the engineer shall not make any representation as being an architect or as performing architectural services unless duly registered as such.

61-23-20. ENGINEERING -- LICENSURE AND RENEWAL FEES -- EXPIRATIONS.

- A.** Licensure shall be for a period of two years as prescribed in the rules of procedure. Initial licenses shall be issued in accordance with the board's rules.
- B.** The board shall establish by rule a biennial fee for professional engineers. Licensure renewal is accomplished upon payment of the required fee and satisfactory completion of the requirements of professional development.
- C.** The executive director of the board shall send a renewal notice to each licensee's last known address. Notice shall be mailed at least one month in advance of the date of expiration of the license.
- D.** Each licensee shall have the responsibility to notify the board of any change of address within thirty days of the change.
- E.** Upon receipt of a renewal fee and fulfillment of other requirements, the board shall issue a licensure renewal card that shall show the name and license number of the licensee and shall state that the person named has been granted licensure to practice as a professional engineer for the biennial period.
- F.** Every license shall automatically expire if not renewed on or before December 31 of the applicable biennial period. A delinquent licensee may renew a license by the payment of twice the biennial renewal fee at any time before March 1 but the delinquent licensee shall not practice during this period. Should the licensee apply to renew an expired license after the March 1 deadline has elapsed, the licensee shall submit a formal application and fee as provided in Section 61-23-17 NMSA 1978. The board, in considering the reapplication, need not question the applicant's qualifications for licensure unless the qualifications have changed since the license expired. The board may adopt rules for inactive and retired status.

61-23-21. PRACTICE OF ENGINEERING.

- A.** No firm, partnership, corporation or joint stock association shall be licensed pursuant to the Engineering and Surveying Practice Act. No firm, partnership, corporation or joint stock association shall practice or offer to practice engineering in the state except as provided in the Engineering and Surveying Practice Act.
- B.** Professional engineers may engage in the practice of engineering and perform engineering work pursuant to the Engineering and Surveying Practice Act as individuals, partners or through joint stock associations or corporations. In the case of an individual, the individual shall be a professional engineer pursuant to the Engineering and Surveying Practice Act. All plans, designs, drawings, specifications or reports that are involved in such practice, issued by or for the practice, shall bear the seal and signature of a professional engineer in responsible charge of and directly responsible for the work issued. In the case of practice through partnership, at least one of the partners shall be a professional engineer pursuant to the Engineering and Surveying Practice Act, and all plans, designs, drawings, specifications or reports that are involved in such practice, issued by or for the partnership, shall bear the seal and signature of the professional engineer in responsible charge of and directly responsible for such work when issued. In the case of practice through a joint stock association or corporation, services or work involving the practice of engineering may be offered through that joint stock association or corporation; provided the person in responsible charge of the activities of the joint stock association or corporation that constitute engineering practice is a professional engineer who has authority to bind such joint stock association or corporation by contract; and further provided that all plans, designs, drawings, specifications or reports that are involved in engineering practice, issued by or for such joint stock association or corporation, bear the seal and signature of a professional engineer in responsible charge of and directly responsible for the work when issued.
- C.** An individual, firm, partnership, corporation or joint stock association may not use or assume a name involving the terms "engineer", "professional engineer", "engineering", "registered" or "licensed" engineer or any modification or derivative of such terms unless that individual, firm, partnership, corporation or joint stock association is qualified to practice engineering in accordance with the requirements in this section.

61-23-22. ENGINEERING -- EXEMPTIONS.

- A.** A New Mexico licensed architect who has complied with all of the laws of New Mexico relating to the practice of architecture has the right to engage in the incidental practice, as defined by regulation, of activities properly classified as engineering; provided that the architect shall not hold himself out to be an engineer or as performing engineering services; and further provided that the architect shall perform only that part of the work

for which he is professionally qualified and shall utilize qualified professional engineers or others for those portions of the work in which the contracting architect is not qualified. Furthermore, the architect shall assume all responsibility for compliance with all laws, codes, regulations and ordinances of the state or its political subdivisions pertaining to all documents bearing his professional seal.

B. An engineer employed by a firm, association or corporation who performs only the engineering services involved in the operation of the employer's business shall be exempt from the provisions of the Engineering and Surveying Practice Act, provided that neither the employee nor the employer offers engineering services to the public.

61-23-23. Repealed.

61-23-23.1 AUTHORITY TO INVESTIGATE -- CIVIL PENALTIES FOR UNLICENSED PERSONS -- ENGINEERING.

A. The board may investigate and initiate a hearing on a complaint against a person who does not have a license, who is not exempt from the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] and who acts in the capacity of a professional engineer within the meaning of the Engineering and Surveying Practice Act. A valid license is required for a person to act as a professional engineer or to solicit or propose to perform work involving the practice of engineering

B. If after the hearing the board determines that based on the evidence the person committed a violation pursuant to the Engineering and Surveying Practice Act, it shall, in addition to any other sanction, action or remedy, issue an order that imposes a civil penalty up to seven thousand five hundred dollars (\$7,500.00) per violation.

C. In determining the amount of the civil penalty it imposes, the board shall consider:

- (1) the seriousness of the violation;
- (2) the economic benefit to the violator that was generated by the violator's commission of the violation;
- (3) the violator's history of violations; and
- (4) any other considerations the board deems appropriate.

D. A person aggrieved by the board's decision may appeal a decision made or an order issued pursuant to Subsection B of this section to the district court pursuant to Section 39-3-1.1 NMSA 1978.

E. Failure to pay a fine levied by the board or to otherwise comply with an order issued by the board pursuant to the Engineering and Surveying Practice Act is a misdemeanor, and upon conviction the person shall be sentenced pursuant to Section 31-19-1 NMSA 1978. Conviction shall be grounds for further action against the person by the board and for judicial sanctions or relief, including a petition for injunction.

61-23-24. ENGINEERING -- VIOLATIONS -- DISCIPLINARY ACTION -- PENALTIES -- REISSUANCE OF LICENSE.

A. The board may suspend, refuse to renew or revoke a license impose a fine not to exceed seven thousand five hundred dollars (\$7,500), place on probation for a specific period of time with specific conditions or reprimand any professional engineer who is found by the board to have:

- (1) practiced or offered to practice engineering in New Mexico in violation of the Engineering and Surveying Practice Act;
- (2) attempted to use the license of another;
- (3) given false or forged evidence to the board or to a board member for obtaining a license;
- (4) falsely impersonated any other licensee of like or different name;
- (5) attempted to use an expired, suspended or revoked license;
- (6) falsely purported to be a professional engineer by claim, sign, advertisement or letterhead;
- (7) violated the rules of professional responsibility for professional engineers adopted and promulgated by the board;
- (8) been disciplined in another state for action that would constitute a violation of either or both the Engineering and Surveying Practice Act or the rules adopted by the board;
- (9) been convicted of a felony; or
- (10) procured, aided or abetted any violation of the provisions of the Engineering and Surveying Practice Act or the rules of the board.

B. Except as provided in Subsection C of Section 61-23-21 NMSA 1978, nothing in the Engineering and Surveying Practice Act shall prohibit the general use of the word "engineer", "engineered" or "engineering" so long as such words are not used in an offer to the public to perform engineering work as defined in Subsections E and L of Section 61-23-3 NMSA 1978.

C. The board may by rule establish the guidelines for the disposition of disciplinary cases involving specific types of violations. The guidelines may include minimum and maximum fines, periods of probation or conditions of probation or reissuance of a license.

D. Failure to pay a fine levied by the board or to otherwise comply with an order issued by the board pursuant to the Uniform Licensing Act is a misdemeanor and shall be grounds for further action against the licensee by the board and for judicial sanctions or relief.

E. A person may prefer charges of fraud, deceit, gross negligence, incompetence or misconduct against a licensed professional engineer. The charges shall be in writing and shall be sworn to by the person making the charges and filed with the executive director of the board. All charges shall be referred to the engineering committee, acting for the board. No action that would have any of the effects specified in Subsection D, E or F of Section 61-1-3 NMSA 1978 may be initiated later than two years after the discovery by the board, but in no case shall an action be brought more than ten years after the completion of the conduct that constitutes the basis for the action. All charges, unless dismissed as unfounded, trivial, resolved by reprimand or settled informally, shall be heard in accordance with the provisions of the Uniform Licensing Act [61-1-1 NMSA 1978] by the engineering committee acting for the board or by the board.

F. Persons making charges shall not be subject to civil or criminal suits, provided that the charges are made in good faith and are not frivolous or malicious.

G. The board or a board member may initiate proceedings pursuant to the provisions of this section in accordance with the provisions of the Uniform Licensing Act. Nothing in the Engineering and Surveying Practice Act shall deny the right of appeal from the decision and order of the board in accordance with the provisions of the Uniform Licensing Act.

H. The board, for reasons it deems sufficient, may reissue a license to a person whose license has been revoked or suspended, provided that a majority of the members of the engineering committee, acting for the board, or of the board votes in favor of the reissuance. A new license bearing the original license number to replace a revoked, lost, destroyed or mutilated may be issued subject to the rules of the board with payment of a fee determined by the board.

I. The professional engineering committee shall prepare and adopt rules of professional responsibility for professional engineers as provided in the Engineering and Surveying Practice Act.

J. A violation of any provision of the Engineering and Surveying Practice Act is a misdemeanor punishable upon conviction by a fine of not more than seven thousand five hundred dollars (\$7,500.00 or by imprisonment of no more than one year, or both.

K. The attorney general or district attorney of the proper district or special prosecutor retained by the board shall prosecute violations of the Engineering and Surveying Practice Act by a nonlicensee.

L. The practice of engineering in violation of the provisions of the Engineering and Surveying Practice Act shall be deemed a nuisance and may be restrained and abated by injunction without bond in an action brought in the name of the state by the district attorney or on behalf of the board by the attorney general or the special prosecutor retained by the board. Action shall be brought in the county where the violation occurs.

61-23-24.1. ENGINEERING -- PROFESSIONAL DEVELOPMENT.

The board shall implement and conduct a professional development program. Compliance and exceptions shall be established by the regulations and rules of procedure of the board.

61-23-25. Repealed.

61-23-26. PUBLIC WORK.

A. It is unlawful for the state or any of its political subdivisions to engage in the construction of any public work involving engineering unless the plans and specifications involving engineering have been prepared by and are under the responsible charge of a licensed professional engineer and the public work involving professional surveying has been executed under the responsible charge of a licensed professional surveyor. Nothing in this

section shall be held to apply to any public work wherein the contemplated expenditure for the complete project does not exceed one hundred thousand dollars (\$100,000), except for public work involving structural design, structural modifications or surveying.

B. The Engineering and Surveying Practice Act shall not apply to construction surveys of engineering and architectural public works projects, the anticipated construction cost of which is less than one hundred thousand dollars (\$100,000).

61-23-27. ENGINEERING -- PUBLIC OFFICER -- LICENSURE REQUIRED.

No person except a licensed professional engineer shall be eligible to hold any responsible office or position for the state or any political subdivision of the state that includes the performance or responsible charge of engineering work.

61-23-27.1, 61-23-27.2. Repealed.

61-23-27.3. CERTIFICATION OF SURVEYOR INTERN -- REQUIREMENTS.

A. An applicant for certification as a surveyor intern shall file the appropriate application and demonstrate that the applicant:

(1) is of good moral character and reputation;

(2) has obtained at least a senior status in a board-approved four-year curriculum in surveying; and

(3) has three references, two of whom shall be licensed professional surveyors having personal knowledge of the applicant's knowledge and experience.

B. After acceptance of the application by the board, the applicant shall be allowed to take the appropriate examination for certification as a surveyor intern.

C. Upon successfully completing the examination and an approved four-year surveying curriculum, then by action of the board, the applicant may be certified as a surveyor intern.

D. The certification of surveyor intern does not permit the intern to practice surveying. Certification as a surveyor intern is intended to demonstrate that the intern has obtained certain skills in surveying fundamentals and is pursuing a career in surveying.

E. If otherwise qualified, a graduate of a board-approved but related curriculum of at least four years, to be considered for certification as a surveyor intern, shall have a specific record of four years of combined office and field board-approved surveying experience obtained under the direction of a licensed professional surveyor. Class time will not be counted in the four years of required experience, but work prior to or while attending school may be counted toward the four years of required experience at the discretion of the board."

61-23-27.4. LICENSURE AS A PROFESSIONAL SURVEYOR -- GENERAL REQUIREMENTS.

A. Licensure as a professional surveyor may be either through examination or through endorsement or comity. In either case, an applicant shall file the appropriate application to demonstrate that the applicant:

(1) is of good moral character and reputation;

(2) is certified as a surveyor intern;

(3) has at least four years of board-approved surveying experience if graduated from a four-year, board-approved surveying curriculum as defined by board rule;

(4) has five references, three of which shall be from licensed professional surveyors having personal knowledge of the applicant's surveying experience; and

(5) if graduated from a board-approved, four-year related science curriculum as specifically defined by board rules, has a minimum of four years of board-approved surveying experience subsequent to certification as a surveyor intern.

B. The applicant's experience pursuant to Paragraphs (3) and (5) of Subsection A of this section shall, at a minimum, include three years of increasingly responsible experience in boundary surveying and four years of increasingly responsible experience under the direct supervision of a licensed professional surveyor.

C. After acceptance of the application by the board, the applicant shall be allowed to take the appropriate examination for licensure as a professional surveyor.

D. Upon successfully completing the examination, the applicant shall be eligible to be licensed as a professional surveyor upon action of the board.

E. If otherwise qualified, an applicant may be licensed if the applicant is currently licensed as a professional surveyor in:

(1) the District of Columbia, another state, a territory or a possession of the United States, provided that:

(a) licensure does not conflict with the provisions of the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] and that the standards required for licensure and the applicant's qualifications equaled or exceeded the licensure standards in New Mexico at the time the applicant was initially licensed; and

(b) the applicant has passed examinations the board deems necessary to determine the applicant's qualifications, including a written examination that includes questions on laws, procedures and practices pertaining to surveying in this state; or

(2) a foreign country and can demonstrate to the board's satisfaction:

(a) evidence that the licensure was based on standards that equal or exceed those currently required for licensure by the Engineering and Surveying Practice Act; and

(b) competence in current surveying standards and procedures by passing examinations the board deems necessary to determine the applicant's qualification, including a written examination that includes questions on laws, procedures and practices pertaining to surveying in New Mexico.

61-23-27.5. SURVEYING -- APPLICATION AND EXAMINATION FEES.

A. All applicants for licensure pursuant to the Engineering and Surveying Practice Act [this article] shall apply for examination, licensure or certification on forms prescribed and furnished by the board. Applications shall be accompanied by the appropriate fee, any sworn statements the board may require to show the applicant's citizenship and education, a detailed summary of his technical work and appropriate references.

B. All application, reapplication, examination and reexamination fees shall be set by the board and shall not exceed the actual cost of carrying out the provisions of the Engineering and Surveying Practice Act. Fees shall not be refundable.

C. Any application may be denied for fraud, deceit, conviction of a felony or for any crime involving moral turpitude.

61-23-27.6. SURVEYING -- EXAMINATIONS.

The examinations for surveying certification and licensure shall be held at least once a year at a time and place the board directs. The surveying committee shall determine the passing grade on examinations.

61-23-27.7. SURVEYING -- LICENSURE AND RENEWAL FEES -- EXPIRATIONS.

A. Licensure for surveyors shall be for a period of two years as prescribed in the rules of procedure. Initial certificates of licensure shall be issued to coincide with the biennial period. Initial licenses shall be issued in accordance with the board's rules.

B. The board shall establish by rule a biennial fee for professional surveyors. Renewal shall be granted upon payment of the required fee and satisfactory completion of the requirements of professional development.

C. The executive director of the board shall send a renewal notice to each licensee's last known address. Notice shall be mailed at least one month in advance of the date of expiration of the license.

D. It shall be the responsibility of the licensee to notify the board of any change of address and to keep the license current.

E. Upon receipt of a renewal fee and fulfillment of other requirements, the board shall issue a licensure renewal card that shall show the name and license number of the licensee and shall state that the person named has been granted licensure to practice as a professional surveyor for the biennial period.

F. Every license shall automatically expire if not renewed on or before December 31 of the applicable biennial period. A delinquent licensee may renew a license by the payment of twice the biennial renewal fee at any time before March 31, but the delinquent licensee shall not practice during this period. Should the licensee wish to renew an expired license after the March 1 deadline has elapsed, the licensee shall submit a formal application as provided in Section 61-23-27.4 NMSA 1978. The board, in considering the reapplication, need not question the applicant's qualifications for licensure unless the qualifications have changed since the license expired.

61-23-27.8. SURVEYING LICENSES AND SEALS.

- A.** The board shall issue surveying licenses pursuant to the Engineering and Surveying Practice Act. The board shall provide for the proper authentication of all documents.
- B.** The board shall regulate the use of seals.

61-23-27.9. SURVEYING -- PRACTICE OF SURVEYING.

- A.** No firm, partnership, corporation or joint stock association shall be licensed pursuant to the Engineering and Surveying Practice Act. No firm, partnership, corporation or joint stock association shall practice or offer to practice surveying in the state except as provided in that act.
- B.** Professional surveyors may engage in the practice of surveying and perform surveying work pursuant to the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] as individuals, partners or through joint stock associations or corporations. In the case of an individual, the individual shall be a professional surveyor pursuant to the Engineering and Surveying Practice Act. All plats, drawings and reports that are involved in the practice, issued by or for the practice, shall bear the seal and signature of a professional surveyor in responsible charge of and directly responsible for the work issued. In the case of practice through a partnership, at least one of the partners shall be a professional surveyor pursuant to that act. In the case of a single professional surveyor partner, all drawings or reports issued by or for the partnership shall bear the seal of the professional surveyor partner who shall be responsible for the work. In the case of practice through a joint stock association or corporation, services or work involving the practice of surveying may be offered through the joint stock association or corporation; provided the person in responsible charge of the activities of the joint stock association or corporation that constitute the practice is a professional surveyor who has authority to bind such joint stock association or corporation by contract; and further provided that all drawings or reports that are involved in such practice, issued by or for the joint stock association or corporation, bear the seal and signature of a professional surveyor in responsible charge of and directly responsible for the work when issued.
- C.** An individual, firm, partnership, corporation or joint stock association may not use or assume a name involving the terms "surveyor", "professional surveyor" or "surveying" or any modification or derivative of those terms unless that individual, firm, partnership, corporation or joint stock association is qualified to practice surveying in accordance with the requirements in this section.
- D.** For all contracts and agreements for professional surveying services, the surveying services contractor shall provide a written statement indicating:
 - (1) the minimum terms and conditions of professional liability insurance coverage, including limits and exceptions; or
 - (2) the absence of professional liability insurance coverage.

61-23-27.10. SURVEYING EXEMPTIONS.

An employee of a firm, association or corporation who performs only the surveying services involved in the operation of the employer's business shall be exempt from the provisions of the Engineering and Surveying Practice Act [this article], provided that neither the employee nor the employer offers surveying services to the public, and provided that the surveying services performed do not include any determination, description, portraying, measuring or monumentation of the boundaries of a tract of land.

61-23-27.11. SURVEYING -- VIOLATIONS -- DISCIPLINARY ACTIONS -- PENALTIES -- REISSUANCE OF LICENSES.

- A.** The board may suspend, refuse to renew or revoke the license, impose a fine not to exceed seven thousand five hundred dollars (\$7,500), place on probation for a specific period of time with specific conditions or reprimand a professional surveyor who is found by the board to have:
 - (1) practiced or offered to practice surveying in New Mexico in violation of the Engineering and Surveying Practice Act [61-23-1 NMSA 1978];
 - (2) attempted to use the license of another;
 - (3) given false or forged evidence to the board or to any board member for obtaining a license;
 - (4) falsely impersonated any other licensee of like or different name;

- (5) attempted to use an expired, suspended or revoked license;
- (6) falsely purported to be a professional surveyor by claim, sign, advertisement or letterhead;
- (7) violated the rules of professional responsibility for professional surveyors adopted and promulgated by the board;
- (8) been disciplined in another state for action that would constitute a violation of either or both the Engineering and Surveying Practice Act or the rules adopted by the board pursuant to the Engineering and Surveying Practice Act;

(9) been convicted of a felony; or

(10) procured, aided or abetted any violation of the provisions of the Engineering and Surveying Practice Act or the rules adopted by the board.

B. The board may by rule establish the guidelines for the disposition of disciplinary cases involving specific types of violations. Guidelines may include minimum and maximum fines, periods of probation or conditions of probation or reissuance of a license.

C. Failure to pay a fine levied by the board or to otherwise comply with an order issued by the board pursuant to the Uniform Licensing Act [61-1-1 NMSA 1978] is a misdemeanor and shall be grounds for further action against the licensee by the board and for judicial sanctions or relief.

D. A person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any licensee. Such charges shall be in writing, shall be sworn to by the person making them and shall be filed with the executive director of the board. No action that would have any of the effects specified in Subsection D, E or F of Section 61-1-3 NMSA 1978 may be initiated later than two years after the discovery by the board, but in no case shall such an action be brought more than ten years after the completion of the conduct that constitutes the basis for the action. All charges shall be referred to the professional surveying committee, acting for the board, or to the board. All charges, unless dismissed as unfounded, trivial, resolved by reprimand or settled informally, shall be heard in accordance with the provisions of the Uniform Licensing Act by the professional surveying committee, acting for the board, or by the board.

E. Persons making charges shall not be subject to civil or criminal suits, provided the charges are made in good faith and are not frivolous or malicious.

F. The board or a board member may initiate proceedings pursuant to the provisions of this section in accordance with the provisions of the Uniform Licensing Act. Nothing in the Engineering and Surveying Practice Act shall deny the right of appeal from the decision and order of the board in accordance with the provisions of the Uniform Licensing Act.

G. The board, for reasons it deems sufficient, may reissue a license to a person whose license has been revoked or suspended, provided that a majority of the members of the professional surveying committee, acting for the board, or of the board votes in favor of reissuance. A new license bearing the original license number to replace a revoked, lost, destroyed or mutilated license may be issued subject to the rules of the board with payment of a fee determined by the board.

H. The professional surveying committee shall prepare and adopt rules of professional responsibility for professional surveyors as provided in the Engineering and Surveying Practice Act.

I. A violation of any provision of the Engineering and Surveying Practice Act is a misdemeanor punishable upon conviction by a fine of not more than seven thousand five_hundred dollars (\$7,5000) or by imprisonment of no more than one year, or both.

J. The attorney general or district attorney of the proper district or special prosecutor retained by the board shall prosecute violations of the Engineering and Surveying Practice Act by a nonlicensee.

K. The practice of surveying in violation of the provisions of the Engineering and Surveying Practice Act shall be deemed a nuisance and may be restrained and abated by injunction without bond in an action brought in the name of the state by the district attorney or on behalf of the board by the attorney general or the special prosecutor retained by the board. Action shall be brought in the county in which the violation occurs.

61-23-27.12. SURVEYING -- PROFESSIONAL DEVELOPMENT.

The board shall implement and conduct a professional development program. Compliance and exceptions shall be established by the regulations and rules of procedure of the board.

61-23-27.13. SURVEYING--PUBLIC WORK.

It is unlawful for the state or any of its political subdivisions to engage in the construction of any public work involving surveying unless the surveying is under the responsible charge of a licensed professional surveyor.

61-23-27.14. SURVEYING -- PUBLIC OFFICER -- LICENSURE REQUIRED.

No person except a licensed professional surveyor shall be eligible to hold any responsible office or position for the state or any political subdivision of the state that requires the performance or responsible charge of surveying work.

61-23-27.15. AUTHORITY TO INVESTIGATE -- CIVIL PENALTIES FOR UNLICENSED PERSONS -- SURVEYING.

A. The board may investigate and initiate a hearing on a complaint against a person who does not have a license, who is not exempt from the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] and who acts in the capacity of a professional surveyor within the meaning of the Engineering and Surveying Practice Act. A valid license is required for a person to act as a professional surveyor or to solicit or purport to perform work involving the practice of surveying.

B. If after the hearing the board determines that based on the evidence the person committed a violation under the Engineering and Surveying Practice Act [61-23-1 NMSA 1978], it shall, in addition to any other sanction, action or remedy, issue an order that imposes a civil penalty up to seven thousand five hundred dollars (\$7,500) per violation.

C. In determining the amount of the civil penalty it imposes, the board shall consider:

- (1) the seriousness of the violation;
- (2) the economic benefit to the violator that was generated by the violator's commission of the violation;
- (3) the violator's history of violations; and
- (4) any other considerations the board deems appropriate.

D. A person aggrieved may appeal a decision made or an order issued pursuant to Subsection B of this section to the district court pursuant to Section 39-3-1.1 NMSA 1978.

E. Failure to pay a fine levied by the board or to otherwise comply with an order issued by the board pursuant to the Engineering and Surveying Practice Act [61-23-1 NMSA 1978] is a misdemeanor and upon conviction the person shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Conviction shall be grounds for further action against the person by the board and for judicial sanctions or relief, including a petition for injunction.

61-23-28. REFERENCE MARKS -- REMOVAL OR OBLITERATION -- REPLACEMENT.

When it becomes necessary by reason of the construction of public or private works to remove or obliterate any triangulation station, benchmark, corner, monument, stake, witness mark or other reference mark, it shall be the duty of the person in charge of the work to cause to be established by a licensed surveyor one or more permanent reference marks, which shall be plainly marked as witness corners or reference marks as near as practicable to the original mark and to record a map, field notes or both with the county clerk of the county wherein located, showing clearly the position of the marks established with reference to the position of the original mark. The surveys or measurements made to connect the reference marks with the original mark shall be of at least the same order of precision as the original survey.

61-23-28.1. Repealed.

61-23-28.2 SURVEYING -- RECORD OF SURVEY.

A. For those surveys that do not create a division of land but only show existing tracts of record, except in the instance of remonumentation as specified in the board's minimum standards for boundary surveys, within sixty calendar days of the completion of the survey, a professional surveyor shall cause to be recorded at the office of the county clerk a survey entitled "boundary survey plat" that shall:

(1) contain a printed certification of the professional surveyor stating that "this is a boundary survey of an existing tract", or existing tracts, if appropriate, and that "it is not a land division or subdivision as defined in the New Mexico Subdivision Act" [47-6-1 NMSA 1978];

(2) identify all tracts by the uniform parcel code designation or other designation established by the county assessor, if applicable;

(3) meet the minimum standards for surveying in New Mexico as established by the board; and

(4) not exceed a size of eighteen inches by twenty-four inches and be at least eight and one-half inches by eleven inches.

B. Fees for recording a boundary survey shall be in conformance with Section 14-8-15 NMSA 1978.

C. For those surveys that do create a division of land, the survey shall be completed in conformity with the board's minimum standards and in conformity with the New Mexico Subdivision Act and any applicable local subdivision ordinances. Filing procedures shall be prescribed in the board's minimum standards. The record of survey required to be filed and recorded pursuant to this subsection shall be recorded at the office of the county clerk within sixty calendar days after completion of the survey or approval by the governing authority.

61-23-29. Repealed.

61-23-30. RIGHT OF ENTRY ON PUBLIC AND PRIVATE PROPERTY -- RESPONSIBILITY.

The engineers and surveyors of the United States and licensed professional engineers and surveyors of the state shall have the right to enter upon the lands and waters of the state and of private persons and of private and public corporations within the state for the purpose of making surveys, inspections, examinations and maps, subject to responsibility for actual damage to crops or other property or for injuries resulting from negligence or malice caused on account of that entry.

61-23-31. LICENSURE UNDER PRIOR LAWS.

Any person holding a valid license as a professional engineer, professional surveyor, professional engineer and surveyor or certification as an engineer intern or surveyor intern granted by the board pursuant to any prior law of New Mexico shall not be required to make a new application or to submit to an examination, but shall be entitled to the renewal of licensure upon the terms and conditions of the Engineering and Surveying Practice Act.

61-23-31.1. GOOD SAMARITAN.

A. A professional engineer or professional surveyor who voluntarily, without compensation, at the request of a state or local public official acting in an official capacity, provides aircraft structure, structural, aeronautical, electrical, mechanical, other engineering services or surveying at the scene of a declared national, state or local emergency caused by a major earthquake, hurricane, tornado, fire, explosion, flood, collapse or other similar disaster or catastrophic event, such as a terrorist act, shall not be liable for any personal injury, wrongful death, property damage or other loss caused by the engineer's or surveyor's acts, errors or omissions in the performance of any surveying or engineering services for any structure, building, piping or other engineered system, publicly or governmentally owned.

B. The immunity provided shall apply only to a voluntary engineering or surveying service that occurs within thirty days of the emergency, disaster or catastrophic event, unless extended by an executive order issued by the governor under the governor's emergency executive powers. Nothing in this section shall provide immunity for wanton, willful or intentional misconduct.

61-23-32. TERMINATION OF AGENCY LIFE -- DELAYED REPEAL.

The state board of licensure for professional engineers and professional surveyors is terminated on July 1, 2017 pursuant to the Sunset Act [12-9-11 NMSA 1978]. The board shall continue to operate according to the provisions of the Engineering and Surveying Practice Act until July 1, 2018. Effective July 1, 2018, the Engineering and Surveying Practice Act is repealed.

61-23-33. NOTICE OF BOUNDARY SURVEY -- CERTAIN LAND GRANTS.

A. If a boundary survey of property is conducted within or bordering the common lands of a community land grant governed and operating pursuant to Chapter 49, Article 6, 7, 8 or 10 NMSA 1978, the surveyor shall give written notice by certified mail to the board of trustees or commissioners of the affected land grant prior to recording the boundary survey or plat with the county clerk. The notice shall indicate where and when the boundary survey will be or was conducted.

B. The board of trustees or commissioners of a community land grant governed and operating pursuant to Chapter 49, Article 6, 7, 8 or 10 NMSA 1978 shall record with the county clerk of the county within which the land grant is located the address and contact information of the appropriate officer of the board or commission to which notice shall be given pursuant to Subsection A of this section. Any change in address or contact information shall be updated and recorded as soon as practicable to ensure that timely notice may be accomplished by certified mail.

C. A surveyor shall give proof of the notice required by Subsection A of this section by having the tracking number of the certified mailing and the address of the land grant as recorded with the county clerk acknowledged and recorded on the boundary survey or plat. A boundary survey or plat recorded pursuant to Section 61-23-28.2 NMSA 1978 without proof of the notice required by Subsection A of this section shall not be considered a valid filing or recording of the boundary survey or plat.

61-23-34. Repealed.

NEW MEXICO BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS



Administrative Code

Title 16, Chapter 39

Parts 1, 2, 3, 4, 5, 6, 7, and 8

Effective July 1, 2015

Parts 2 and 5 Effective January 1, 2016

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TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS
PART 1 GENERAL PROVISIONS--PROFESSIONAL ENGINEERING AND SURVEYING
ORGANIZATION AND ADMINISTRATION

16.39.1.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Professional Surveyors, 2550 Cerrillos Road, Santa Fe, NM 87505, telephone no. (505) 476-4565.
[16.39.1.1 NMAC - Rp, 16 NMAC 39.1.1, 1/1/2002; A, 7/1/2006; A, 7/1/2015]

16.39.1.2 SCOPE: Provisions for Part 1 apply to staff and officers of the board and to any person licensed as a professional engineer or a professional surveyor, or to anyone applying for licensure as a professional engineer or a professional surveyor in New Mexico.
[16.39.1.2 NMAC - Rp, 16 NMAC 39.1.2, 1/01/2002]

16.39.1.3 STATUTORY AUTHORITY: NMSA 1978, Section 61-23-10 (B) prescribes that "The board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying." 16.39.1 NMAC applies to both engineering and surveying.
[16.39.1.3 NMAC - Rp, 16 NMAC 39.1.3, 1/01/2002; A, 7/01/2006]

16.39.1.4 DURATION: Permanent.
[16.39.1.4 NMAC - Rp, 16 NMAC 39.1.4, 1/01/2002]

16.39.1.5 EFFECTIVE DATE: January 1, 2002, unless a later date is cited at the end of a section.
[16.39.1.5 NMAC - Rp, 16 NMAC 39.1.5, 1/01/2002]

16.39.1.6 OBJECTIVE: The objective of Part 1 of Chapter 39 is to clearly define the organizational structure of the board, the types of meetings and order of business, the number needed for a quorum, the duties of the officers, the responsibilities of the board, the preparation and distribution of a roster of licensed professional engineers and surveyors, the establishment of fees, and retired status.
[16.39.1.6 NMAC - Rp, 16 NMAC 39.1.6, 1/01/2002]

16.39.1.7 DEFINITIONS:
A. "Category" means professional engineer or professional surveyor.
B. "Branch" means discipline.
[16.39.1.7 NMAC - Rp, 16 NMAC 39.1.7, 1/1/2002; A, 7/1/2015]

16.39.1.8 THE BOARD:
A. The name of this board shall be the state board of licensure for professional engineers and professional surveyors hereinafter referred to as the "board".
B. The official seal of the board shall be an embossed circular seal one and three-quarter inches in diameter consisting of two concentric circles; the outer circle to be one and three-quarter inches in diameter. The inner circle is to be one and one-quarter inches in diameter. The inner circle shall contain the seal of the state of New Mexico and the words, "State of New Mexico." The words, "Board of Licensure for Professional Engineers and Professional Surveyors", shall be contained between the two (2) concentric circles.
C. The fiscal year of the board shall be July 1, through June 30 of the following calendar year.
[16.39.1.8 NMAC - Rp, 16 NMAC 39.1.8, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.1.9 MEMBERS OF THE BOARD: Members of the board are not employees within the meaning of that term under the Governmental Conduct Act; however, they are public officers; therefore the Governmental Conduct Act applies to all board members.
[16.39.1.9 NMAC - Rp, 16 NMAC 39.1.9, 1/01/2002; A, 7/01/2006]

16.39.1.10 MEETINGS OF THE BOARD:

A. Special and emergency meetings of the board may be called at any time by the chair of the board, or a majority of the board members; and meetings of either of the two (2) committees may be called at any time by order of the respective chair of the professional engineering committee or the professional surveying committee or a majority of the committee members.

B. Proper public notice of all meetings shall be given in accordance with the provisions of the Open Meeting Act.

[16.39.1.10 NMAC - Rp, 16 NMAC 39.1.10, 1/01/2002]

16.39.1.11 ORGANIZATION OF THE BOARD:

A. Annually, at the last meeting of the fiscal year, the board shall elect its officers, who shall take office on July 1.

B. Annually, at the first meeting after July 1, the chair of the board shall appoint from the board's members such additional committees as may be found appropriate by the board.

[16.39.1.11 NMAC - Rp, 16 NMAC 39.1.11, 1/01/2002]

16.39.1.12 DUTIES OF THE BOARD, OFFICERS OF THE BOARD, AND THE EXECUTIVE DIRECTOR:

A. The board shall act as a whole in all administrative, financial and personnel matters and any other activity not specifically related to the practices of engineering or surveying.

B. The board shall appoint an executive director who shall serve at the pleasure of the board.

C. The chair of the board shall preside at all meetings; shall appoint all committees; shall sign all certificates of licensure, vouchers and other official documents; and shall otherwise perform all duties pertaining to the office of the chair.

D. The vice-chair shall, in the absence or incapacity of the chair, exercise the duties and shall possess all the powers of the chair.

E. The secretary of the board shall co-sign all certificates of licensure and in the absence or incapacity of the chair and vice-chair, exercise the duties and shall possess all the powers of the chair.

F. The executive director shall perform and supervise the following for the board and professional engineering and professional surveying committees:

(1) conduct and care for all correspondence in the name of the board, the professional engineering committee and the professional surveying committee;

(2) record and file all applications, certificates of licensure, examinations, licenses and revocations for both professional engineering and professional surveying committees;

(3) prepare and submit to the board, at the first meeting of each fiscal year for review and approval, an annual report of board activities and statistics for the preceding fiscal year, including a financial report; prepare the approved annual report for transmittal to the governor;

(4) keep a record of all meetings of the board and committees and maintain a proper account of the business of the board; a draft of the meetings' minutes shall be provided to each member for comment within ten (10) working days after each meeting; a final draft shall be provided to each board member at the next meeting for final approval;

(5) receive and account for all funds and transfer same to state treasurer within twenty-four (24) hours of receipt; authorize and approve payment by department of finance and administration invoices and vouchers for only those expenditures included in the board's approved operating budget;

(6) present and submit to the board at the first meeting of each fiscal year a financial report prepared by the rules of generally accepted accounting principles as of the preceding June 30th, such report to include the reporting of the transactions of the board during the preceding fiscal year, and a complete statement of the receipts, expenses and expenditures of the board; upon being approved by the board, shall be included in the annual report and submitted to the governor;

(7) receive and review licensure applications for completeness for consideration by the respective committees;

(8) schedule and arrange for the administration of written examinations provided for in the Engineering and Surveying Practice Act, content of which having been approved by the board or respective professional engineering or professional surveying committees; when requested by the applicant, the director shall make reasonable accommodations for the testing of an applicant with a certified disability in accordance with the provisions of the Americans with Disabilities Act and who meets the minimum qualifications in the Engineering and Surveying Practice Act and these rules; when necessary qualified assistance, approved by the board, may be retained

for conduct of examinations;

(9) prepare and maintain a current roster on the board's website, and furnish copies to the public upon request and payment of a fee as determined by the board; in accordance with Section 61-23-13 NMSA 1978;

(10) provide one (1) week in advance of each meeting, drafts of the agenda of the meeting to each member of the board;

(11) publish an annual newsletter at a minimum;

(12) direct investigations of any alleged violations or infringements of the Engineering and Surveying Practice Act; a written report covering status of protest actions and alleged violations shall be presented to the appropriate committee at each meeting; this may be in the form of appropriate commentary recorded in the minutes, supported by a separate file on the case; when necessary, qualified assistance, approved by the board, may be retained for conduct of investigations;

(13) file formal disciplinary actions upon approval by the board with the appropriate jurisdiction for prosecution of alleged violations of the act and/or the board's rules.

[16.39.1.12 NMAC - Rp, 16 NMAC 39.1.12, 1/1/2002; A, 7/1/2006; A, 7/1/2015]

16.39.1.13 DUTIES OF THE OFFICERS OF THE PROFESSIONAL ENGINEERING AND PROFESSIONAL SURVEYING COMMITTEES:

A. The chair shall preside at all meetings and shall otherwise perform all duties pertaining to the office of the chair.

B. The vice-chair shall, in the absence or incapacity of the chair, exercise the duties and shall possess all the powers of the chair.

[16.39.1.13 NMAC - Rp, 16 NMAC 39.1.13, 1/01/2002]

16.39.1.14 PROCEDURES AT BOARD MEETINGS AND COMMITTEE MEETINGS:

A. The order of business may be as follows:

(1) **board meetings:**

- (a) public notice;
- (b) approval of agenda;
- (c) approval of minutes;
- (d) reports of committees;
- (e) communications;
- (f) old business;
- (g) new business;
- (h) complaints and violations;
- (i) adjournment;

(2) **committee meetings:**

- (a) public notice;
- (b) approval of agenda;
- (c) approval minutes;
- (d) reports of sub-committees;
- (e) communications;
- (f) old business;
- (g) new business;
- (h) complaints and violations;
- (i) applications;
- (j) adjournment.

B. *Roberts' rules of order* shall generally govern the procedure of the board and committee meetings except as otherwise provided for in Title 16, Chapter 39 of the New Mexico administrative code or the Engineering and Surveying Practice Act.

C. Board members may participate in a meeting of the board or committees by means of a telephone conference or similar communications equipment and participation by such means shall constitute presence in person at the meeting. Participation by telephone may only occur when it is difficult or impossible for board members to attend.

[16.39.1.14 NMAC - Rp, 16 NMAC 39.1.14, 1/1/2002; A, 7/1/2006; A, 7/1/2015]

16.39.1.15 ROSTER: The roster shall contain the following information for each licensee: legal name, street address or post office box number, city, state, zip code, class of licensure, discipline, status, and license number.
[16.39.1.15 NMAC - Rp, 16 NMAC 39.1.15, 1/1/2002; A, 7/1/2015]

16.39.1.16 FEES:

- A.** A fee will be assessed to process an application for a license to practice, for enrollment as an engineering intern or surveying intern, and for examinations.
 - B.** Examination fees shall be paid on or before the date specified by the board prior to the date of the scheduled examination. Said fees are earned fees and are not refundable if the applicant should fail to appear for the examination.
 - C.** Renewal and application fees are earned fees and are not refundable.
 - D.** All fees shall be set by the board. Changes in renewal fees, application fees, and examination fees shall become effective as designated by the board.
- [16.39.1.16 NMAC - Rp, 16 NMAC 39.1.16, 1/01/2002; A, 7/01/2006]

16.39.1.17 STATUS OF LICENSURE:

- A.** Retired status - a licensee shall become eligible for retired status with a waiver of renewal fees after meeting all the following qualifications:
 - (1) retired from active practice;
 - (2) at least sixty (60) years of age; and
 - (3) have been a licensee for a continuous period of twenty (20) years, at least ten (10) of which must have been in New Mexico.
 - B.** Licensees shall request retired status by letter. In the event the licensee on retired status desires to return to practice, the licensee shall apply to the board, comply with the continuing professional development requirements; and if approved shall pay the appropriate fee.
 - C.** Professional engineers and professional surveyors on "retired status" with the board may use the titles "engineer", "surveyor", "professional engineer", "professional surveyor", PE or PS after their names and shall add "(Ret.)" or "(Retired)" after such title.
 - D.** Inactive status - a licensee shall become eligible for inactive status with a waiver of renewal fees and professional development requirements after meeting all the following qualifications:
 - (1) the licensee is not engaged in the respective professions (engineering or surveying) which requires licensure in this jurisdiction;
 - (2) the licensee has been a licensed professional engineer or surveyor in this jurisdiction for ten (10) consecutive years;
 - (3) the licensee has filed an application and application fee prescribed by the board for inactive status prior to the expiration of the license.
 - E.** In the event a licensee on inactive status desires to return to practice within six (6) years of acquiring inactive status, the licensee shall make proper application to the board, comply with the continuing professional development requirements (a minimum of thirty (30) PDHs) and if approved shall pay the appropriate fee.
 - F.** An inactive licensee who has maintained inactive status in excess of six (6) consecutive years may be readmitted to active practice of the profession only upon making proper application and completion of the requirements as prescribed by the board. (In the event an inactive licensee does not maintain a current license in any jurisdiction for the six (6) previous years prior to requesting active status, that person will be required to take the principles and practice of engineering (PE) examination or the principles and practice of surveying (PS) examination and the New Mexico surveying state specific exam.
- [16.39.1.17 NMAC - Rp, 16 NMAC 39.1.17, 1/1/2002; A, 7/1/2006; A, 7/1/2015]

HISTORY OF 16.39.1 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the state records center and archives under: PELS 67-1, New Mexico Engineering Practice Act, filed 6-22-67; PELS 79-1, New Mexico Engineering and Land Surveying Practice Act, filed 10-29-79; PELS 67-2, By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 06-22-67; PELS 68-1, By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 10-07-68; PELS 69-1, By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 07-03-69; PELS 71-1, Rules of Procedure Manual, filed 01-14-71; PELS 73-1, Rules of Procedure Manual, filed 01-04-73; PELS 75-1, Rules of Procedure Manual, filed 12-15-

75; PELS 80-1, Regulations and Rules of Procedure, filed 01-28-80; PE/PS Rule No. 89-1, Regulations and Rules of Procedure, filed 08-15-89; Rule 100.1, Regulations and Rules of Procedure - The Board, filed 10-28-94; Rule 100.2, Regulations and Rules of Procedure--Members of the Board, filed 10-28-94; Rule 100.3, Regulations and Rules of Procedure--Meeting of the Board, filed 10-28-94; Rule 100.4, Regulations and Rules of Procedure--Organization of the Board, filed 10-28-94; Rule 100.5, Regulations and Rules of Procedure--Duties of the Board, Officers of the Board, and The Executive Director, filed 10-28-94; Rule 100.6, Regulations and Rules of Procedure--Duties of the Officers of the Professional Engineering and Professional Surveying Committee, filed 10-28-94; Rule 100.7, Regulations and Rules of Procedure--Procedures at Board Meetings and Committee Meetings, filed 10-28-94; Rule 100.8, Regulations and Rules of Procedure--Roster, filed 10-28-94; Rule 100.9, Regulations and Rules of Procedure--Fees, filed 10-28-94; Rule 100.10, Regulations and Rules of Procedure--Status of Registration, filed 10-28-94.

History of Repealed Material:

16 NMAC 39.1 (filed 3-31-1998); 16 NMAC 39.1.17.4, 16 NMAC 39.1.17.5, 16 NMAC 39.1.17.6 (filed 01-04-2000) repealed 01/01/2002.

Other History:

Rule 100.1, Regulations and Rules of Procedure - The Board (filed 10-28-94); Rule 100.2, Regulations and Rules of Procedure--Members of the Board (filed 10-28-94); Rule 100.3, Regulations and Rules of Procedure--Meeting of the Board (filed 10-28-94); Rule 100.4, Regulations and Rules of Procedure--Organization of the Board (filed 10-28-94); Rule 100.5, Regulations and Rules of Procedure--Duties of the Board, Officers of the Board, and The Executive Director (filed 10-28-94); Rule 100.6, Regulations and Rules of Procedure--Duties of the Officers of the Professional Engineering and Professional Surveying Committee (filed 10-28-94); Rule 100.7, Regulations and Rules of Procedure--Procedures at Board Meetings and Committee Meetings (filed 10-28-94); Rule 100.8, Regulations and Rules of Procedure--Roster (filed 10-28-94) Rule 100.9, Regulations and Rules of Procedure--Fees (filed 10-28-94); and Rule 100.10, Regulations and Rules of Procedure--Status of Registration (filed 10-28-94) **all** renumbered, reformatted and replaced by 16 NMAC 39.1, General Provisions--Professional Engineering and Surveying--Organization and Administration, effective 04-15-1998.

16 NMAC 39.1 (filed 03-31-1998) General Provisions--Professional Engineering and Surveying--Organization and Administration, was replaced by 16.39.1 NMAC, General Provisions--Professional Engineering and Surveying--Organization and Administration, effective 01-01-2002.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS
PART 2 CONTINUING PROFESSIONAL DEVELOPMENT

16.39.2.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Professional Surveyors, 2550 Cerrillos Road, Santa Fe, NM 87505, telephone no. (505) 476-4565.
[16.39.2.1 NMAC - Rp, 16 NMAC 39.2.1, 12/01/2001; A, 7/01/2006; A, 7/1/2015]

16.39.2.2 SCOPE: Provisions for Part 2 apply to any person licensed as a professional engineer or a professional surveyor, or to anyone applying for licensure as a professional engineer or a professional surveyor in New Mexico.
[16.39.2.2 NMAC - Rp, 16 NMAC 39.2.2, 12/01/2001]

16.39.2.3 STATUTORY AUTHORITY: NMSA 1978, Section 61-23-10 (B) prescribes that the board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying. 16.39.2 NMAC applies to both engineering and surveying. Sections 61-23-24.1 and 61-23-27.12, NMSA 1978 prescribe that "The board shall implement and conduct a professional development program. Compliance and exceptions shall be established by the regulations and rules of procedure (Title 16, Chapter 39 of the New Mexico Administrative Code) of the board."
[16.39.2.3 NMAC - Rp, 16 NMAC 39.2.3, 12/01/2001; A, 7/01/2006]

16.39.2.4 DURATION: Permanent.
[16.39.2.4 NMAC - Rp, 16 NMAC 39.2.4, 12/01/2001]

16.39.2.5 EFFECTIVE DATE: December 1, 2001, unless a later date is cited at the end of a section or paragraph.
[16.39.2.5 NMAC - Rp, 16 NMAC 39.2.5, 12/01/2001]

16.39.2.6 OBJECTIVE: The objective of Part 2 of Chapter 39 is to clearly define requirements of a professional development program for the renewal of professional engineer and surveyor licenses.
[16.39.2.6 NMAC - Rp, 16 NMAC 39.2.6, 12/01/2001]

16.39.2.7 DEFINITIONS:

- A.** Professional development hour (PDH) - a contact hour (nominal) of instruction or presentation - the common denominator for other units of credit.
 - B.** Continuing education unit (CEU) - unit of credit customarily earned for continuing education courses. One (1) continuing education unit equals ten (10) hours of class in approved continuing education course.
 - C.** College/unit semester/quarter hour - credit for course from ABET approved curriculum or other related college course approved in accordance with Subsection E of 16.39.2.8 NMAC.
 - D.** Course/activity - any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice.
 - E.** Dual licensee - a person who is licensed as both a professional engineer and a professional surveyor.
 - F.** Ethics training - course content that addresses ethics in the engineering and in the surveying fields.
- [16.39.2.7 NMAC - Rp, 16 NMAC 39.2.7, 12/01/2001; A, 7/01/2006; A, 7/1/2015]
[These definitions were moved from Paragraphs (1)-(5) of Subsection C of 16.39.2.8 NMAC.]

16.39.2.8 16.39.2.8 CONTINUING PROFESSIONAL DEVELOPMENT - REQUIREMENTS:
The purpose of the continuing professional development requirement is to enhance the continuing level of professional development of professional engineers and professional surveyors.

- A. Introduction** - Every licensee shall meet the continuing professional development requirements of these regulations for professional development as a condition for license renewal.
- B. Failure to meet requirements** - Submission of professional development hours (PDHs) shall be made concurrently with license renewal failure to meet the PDH requirements will result in the rejection of renewal.
- C. [Reserved]**
- D. Requirements** - each licensee is required to obtain thirty (30) professional development hours

(PDH) units during a biennium at least two (2) of which shall be in ethics. A maximum of ten (10) PDH units may be earned in self-directed study. If a licensee exceeds the biennial requirement in any biennial cycle, a maximum of fifteen (15) PDH units may be carried forward into the subsequent biennium in accordance with what has been previously reported to the board. PDH units may be earned from participation in qualifying activities as follows:

- (1) successful completion of college courses relevant to engineering and surveying;
- (2) successful completion of continuing education courses;
- (3) successful completion of short courses/tutorials, webinar or distance -education courses offered for self-study, independent study or group study through synchronous or asynchronous delivery method such as live, correspondence, archival or internet based instruction;
- (4) presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions or conferences;
- (5) teaching or instructing in Paragraphs (1) through (4) of Subsection D of 16.39.2.8

NMAC;

- (6) authoring published papers, articles, or books;
- (7) active participation in professional or technical societies and their committees;
- (8) patents;
- (9) technical reviews, including articles from periodicals, books, video/audio cassettes, tutorials and other sources, which contribute to the technical or professional education or competency of the licensee;

(10) participation in civic or community activities, relevant to the engineering and surveying professions, as a speaker, instructor, presenter or panelist;

- (11) successful completion of ethics training, up to four (4) hours per biennial renewal.

E. Units - the conversion of other units of credit to PDH units is as follows:

- (1) one (1) college or unit semester..... 45 PDH;
- (2) one (1) college or unit quarter hour..... 30 PDH;
- (3) one (1) continuing education unit..... 10 PDH;
- (4) one (1) hour of professional development in course work, seminars, or professional or technical presentations made at meetings, conventions, or conferences..... 1 PDH;
- (5) for teaching, apply multiple of two (2) (teaching credit is valid for teaching a course or seminar for the first time only; teaching credit does not apply to full-time faculty);
- (6) each published paper, article, or book in the licensee's area of professional practice

10 PDH;

- (7) active participation in professional and technical societies (each organization) 2 PDH/yr;
- (8) each patent..... 10 PDH;
- (9) one (1) hour of literature review..... 1 PDH (max 6 PDH/biennium);
- (10) one (1) hour of each civic or community activity..... 1 PDH (max 4 PDH/biennium);
- (11) one (1) hour of ethics training..... 1 PDH (max 4 PDH/biennium).

F. Determination of credit - the board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit:

- (1) credit for college or community college approved courses will be based upon course credit established by the college;
- (2) credit for qualifying seminars, workshops, professional conventions, and courses/activities may be recommended by the professional societies;
- (3) additional criteria for credit determination shall be included in the board policy.

G. Record keeping - each licensee is responsible for maintaining records that support credits claimed is the responsibility of the licensee. Records required include but are not limited to: 1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; 2) attendance verification records in the form of completion certificates, paid receipts or other documents supporting evidence of attendance; 3) proof of membership in a technical organization issuing a publication as a part of its membership fee; 4) a log indicating the medium used for a technical review, the subject of the review, the author or sponsoring organization, the date the review was conducted, a brief written summary of the contents of the reviewed material and the time spent on the review; and 5) the organization sponsoring a civic or community activity, the date and location of the activity, the subject of the activity and the licensee's involvement in the activity. These records must be maintained for a period of three (3) years and copies may be requested by the board for audit verification purposes.

H. Exemptions - a licensee may be exempt from the professional development educational

requirements for one (1) of the following reasons:

(1) new licensees by way of examination or comity/endorsement shall be exempt for the first year directly following the issuance of their license; PDH requirements will be prorated for any remaining portion of the licensing period beyond one (1) year from the date of initial licensure;

(2) a licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year may be exempt from obtaining the professional development hours required during that year; supporting documentation shall be furnished to the board;

(3) licensees experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board may be exempt; supporting documentation must be furnished to the board;

(4) licensees who have been approved for "retired status" by the board shall be exempt from the professional development hours required; in the event such a person elects to return to active practice of professional engineering or professional surveying, professional development hours must be earned before returning to active practice for the preceding biennial cycle.

I. Reinstatement - a licensee may bring a lapsed license to active status by obtaining all delinquent PDH units outstanding from the last biennium and complying with all other reinstatement requirements in the Engineering and Surveying Practice Act and the board's rules and regulations; however, if the total number required to become current exceeds thirty (30), then thirty (30) shall be the maximum number required.

J. Comity/out-of-jurisdiction resident - licensees who are residents of other jurisdictions shall meet the continuing professional development requirements of this board. These requirements may be deemed satisfied when a non-resident licensee provides evidence of having met requirements for another state engineering/surveying licensing board that are equal to or exceed the requirements of this board.

K. Dual licensees - the number of PDH units required shall remain the same for persons who hold a dual license as a professional engineer and professional surveyor; for persons who hold a dual license, half of the PDH units shall be in each profession.

L. Forms - all renewal applications will require the number of earned PDH units. The licensee must sign the renewal application, and submit with the appropriate fee.

[16.39.2.8 NMAC - Rp, 16 NMAC 39.2.8, 12/1/2001; A, 7/1/2006; A, 7/1/2015; A, 1/1/2016]

HISTORY OF 16.39.2 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the state records center and archives under:

Rule No. 100.11 Regulations and Procedure - Continuing Professional Development - Mandatory Program, filed 10-28-94; Rule No. 100.11 Regulations and Rules of Procedure - Continuing Professional Development - Mandatory Program, filed 10-18-95.

History of Repealed Material:

16 NMAC 39.2 Professional Development, filed 10-16-1998, repealed (effective 12/01/01). Replaced by 16.39.2 NMAC, filed 10-16-01 (effective 12/01/01).

Other History:

Rule No. 100.11, Regulations and Rules of Procedure - Continuing Professional Development - Mandatory Program (filed 10-18-95) renumbered, reformatted and replaced by 16 NMAC 39.2, Continuing Professional Development - Mandatory Program, effective 04-15-1998.

16 NMAC 39.2, Continuing Professional Development - Mandatory Program (filed 03-31-1998) renumbered, reformatted and replaced by 16.39.2 NMAC, Continuing Professional Development - Mandatory Program, effective 12/01/01.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS
PART 3 ENGINEERING LICENSURE, DISCIPLINES, APPLICATIONS, EXAMS, PRACTICE,
SEAL OF LICENSEE AND ENDORSEMENTS

16.39.3.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Professional Surveyors, 2550 Cerrillos Road, Santa Fe, NM 87505, telephone no. (505) 476-4565.
[16.39.3.1 NMAC - Rp, 16 NMAC 39.3.1, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.3.2 SCOPE: Provisions for Part 3 apply to any person certified as an engineer intern, licensed as a professional engineer, or to anyone applying for certification as an engineer intern or licensure as a professional engineer in New Mexico.
[16.39.3.2 NMAC - Rp, 16 NMAC 39.3.2, 1/01/2002]

16.39.3.3 STATUTORY AUTHORITY: NMSA 1978, Section 61-23-10 (B) prescribes that "The board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying. Section 61-23-10 (C) states the professional engineering committee shall adopt and promulgate rules of professional responsibility exclusive to the practice of engineering. All such bylaws and rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act. Section 61-23-19 prescribes, "The board shall provide for the proper authentication of all documents. The board shall regulate the use of seals."
[16.39.3.3 NMAC - Rp, 16 NMAC 39.3.3, 1/01/2002; A, 7/01/2006]

16.39.3.4 DURATION: Permanent.
[16.39.3.4 NMAC - Rp, 16 NMAC 39.3.4, 1/01/2002]

16.39.3.5 EFFECTIVE DATE: January 1, 2002, unless a later date is cited at the end of a section.
[16.39.3.5 NMAC - Rp, 16 NMAC 39.3.5, 1/01/2002]

16.39.3.6 OBJECTIVE: The objective of Part 3 of Chapter 39 is to clearly define the procedure for granting licensure to practice engineering or certification as engineer interns, identify and provide procedures for engineering disciplines, applications and examinations, practice of engineering, seal of licensees and application by endorsement guidelines.
[16.39.3.6 NMAC - Rp, 16 NMAC 39.3.6, 1/01/2002; A, 7/1/2015]

16.39.3.7 DEFINITIONS: Board-approved, four-year curriculum in engineering is defined as:

- A.** "ABET" is defined as the accreditation board for engineering and technology.
- B.** "Board-approved, four (4) -year curriculum in engineering" is defined as:
 - (1) engineering curriculum of at least four (4) years that has been accredited by ABET within at least three (3) years of the applicant's graduation with a bachelor's degree in engineering;
 - (2) curriculum not accredited by ABET but with the minimum number of engineering credits required for accreditation by ABET; and
 - (3) Curriculum required for graduate degree (master or doctoral) in engineering from an engineering program with an ABET-accredited bachelor's degree has successfully completed (as confirmed by letter from graduation committee) all requirements deficient to bachelor's degree in engineering.
- C.** "Engineering discipline" is defined as a designated area of proficiency and competence in the practice of engineering.
- D.** "FE exam" refers to the fundamentals of engineering exam.
- E.** "PE exam" refers to the principles and practice of engineering exam.
- F.** "NCEES" refers to the national council of examiners for engineering and surveying.
- G.** "Category" refers to the type of license such as professional engineer or professional surveyor as referred to in Subsections L and P of Sections 61-23-23 NMSA 1978.
- H.** "Branch" refers to engineering disciplines as referred to in 16.39.3.8 NMAC.

16.39.3.8 ENGINEERING DISCIPLINES:

A. Licensure is granted as a professional engineer and shall be so stated on the certificate. Although the Engineering and Surveying Practice Act makes no specific designation as to the disciplines of engineering practice on the certificates as issued by the board, the records and roster of the board shall indicate the discipline(s) in which the licensee is competent to practice in accordance with this section. Only the discipline(s) of engineering for which the applicant has successfully been examined or approved by the professional engineering committee will be recorded.

B. Requests for engineering disciplines will be accepted from the following list; and the board's records and roster will be annotated with the corresponding alphabetical code:

(1)	architectural	A
(2)	aeronautical	B
(3)	civil	C
(4)	agricultural	D
(5)	electrical and computer	E
(6)	network engineer	F
(7)	geological	G
(8)	chemical	H
(9)	industrial	I
(10)	mechanical	M
(11)	mining	N
(12)	metallurgical	NN
(13)	petroleum	P
(14)	control systems	Q
(15)	structural	R
(16)	nuclear	T
(17)	fire protection	U
(18)	environmental	V
(19)	construction	W
(20)	naval architecture and marine	Nm
(21)	software	Sw

C. Other disciplines may be considered as reviewed and approved by the board.

D. A licensee may be listed in no more than three (3) disciplines of engineering. Subsequent to initial licensure, a licensee may apply for licensure in another discipline of engineering. The licensee shall demonstrate competence in that discipline and may be required to appear before the board. Demonstration of competence may be accomplished by presenting evidence as follows:

- (1) the licensee shall file a separate application for the additional discipline requested and pay an application fee for the additional application; and
- (2) complete the application forms to indicate clearly the education, experience, and three (3) acceptable personal references which will substantiate proficiency in the discipline for which the licensee is applying; experience and personal references must be stated;
- (3) an applicant for licensure by endorsement may initially apply for the three disciplines.

E. Structural discipline - except for an applicant with a B.S. degree with a structural option and a minimum of four (4) years of post-baccalaureate structural engineering experience, listing as a structural engineer may be obtained by having gained an acceptable engineering degree which included a minimum of six (6) hours of structural design; having licensure as a professional engineer; and having four (4) years of structural experience gained after licensure and acceptable to the board.

- (1) Passing the NCEES structural tests part I & II may be substituted for two (2) years of the required experience.
- (2) A master's degree in structures may be substituted for one (1) year of the required experience.
- (3) An applicant for licensure as a structural engineer by endorsement shall meet the requirements of Paragraphs (1) and (2) of Subsection D of 16.39.3.8 NMAC.

F. Specialty sub-disciplines - The professional engineering committee of the board may determine that the special practice of engineering within one (1) or more of the engineering disciplines in Subsection B of

16.39.3.8 NMAC requires unique training/education and experience to adequately protect the public safety and health, and the professional engineering committee of the board shall declare this special practice of engineering to be a specialty sub-discipline. The declaration of a specialty sub-discipline shall be based on a need identified by the state or any of its political subdivisions, availability of appropriate and timely training/education within the state of New Mexico, and the ability of the identification of a specialty sub-discipline to inform the public of the needed special practice of engineering. If the professional engineering committee of the board declares a specialty sub-discipline, after a rules hearing, the requirements for the special practice of engineering shall be included in Title 16, Chapter 39 of the New Mexico administrative code for engineering and surveying:

(1) the specialty sub-discipline rules shall specify the training/education and experience requirements to obtain certification for the special engineering practice, including provisions for equivalent training when a particular course of training/education is specified; in anticipation that more than one (1) discipline identified in Subsection B of 16.39.3.8 NMAC will qualify for the specialty sub-discipline, the rules shall identify which engineering disciplines in Subsection B of 16.39.3.8 NMAC, are most likely to qualify for the specialty sub-discipline;

(2) the board shall maintain a list of engineers who have been certified as meeting the requirements for the specialty sub-discipline; the list shall be available to the public upon request and pursuant to the inspection of public records; the professional engineering committee of the board shall establish a form for the application to obtain a certification for the specialty sub-discipline; upon approval by the professional engineering committee of the board, the qualified licensee's name shall be added to the list of licensees having the specialty sub-discipline;

(3) a licensee's name may be removed from the list of persons certified for the specialty sub-discipline, upon determination by the professional engineering committee of the board that the licensee no longer qualifies for the certification specialty sub-discipline; such removal shall be only after the appropriate process/hearing by the professional engineering committee of the board;

(4) the failure to obtain certification for the specialty sub-discipline shall not limit the practice of engineering within any of the engineering disciplines identified in Subsection B of 16.39.3.8 NMAC, and the failure to obtain certification in the specialty sub-discipline shall not constitute practice outside the licensee's area of competence; however, the failure to obtain certification for a specialty sub-discipline and a determination by the professional engineering committee of the board of inappropriate practice of engineering within the engineering specialty may be cause for determination that the engineering practice is not within the licensee's authorized discipline, and that appropriate disciplinary action can be taken;

(5) the certification of a specialty sub-discipline shall be for a period established by the professional engineering committee of the board, but not less than two (2) years or more than six (6) years; renewal of the specialty sub-discipline shall be concurrent with license renewal;

(6) the professional engineering committee of the board may remove the specialty sub-discipline from the rules for engineering and surveying, after a rules hearing, upon the finding that the training/education is no longer available or that the designation of the specialty sub-discipline is no longer needed to protect the public safety and health.

G. Establishment of specialty sub-disciplines - The following specialty sub-discipline(s) for the practice of engineering are established. On-site wastewater engineering.

(1) Area of practice - the design of septic tank systems, on-site wastewater treatment plants, leach fields, evapotranspiration fields, and similar structures that do not discharge wastewater effluent directly to a surface watercourse or stream.

(2) New Mexico governmental agency identifying the need for this specialty sub-discipline - New Mexico environment department.

(3) Training/education within New Mexico - a course of training/education conducted in cooperation with the New Mexico environment department and approved by the professional engineering committee of the board. The course content shall include NM laws, unique NM conditions requiring special design practice, site testing that must be performed, procedures of approval of plans and specifications, and requirements for certification of construction.

(4) The engineering disciplines in Subsection B of 16.39.3.8 NMAC that may be applicable to this specialty sub-discipline are: architectural, civil, agricultural, geological, industrial, petroleum, environmental and construction.

(5) The certification of specialty sub-discipline for on-site wastewater engineering shall expire at the end of the license renewal period that is three (3) years after the granting of the certification for specialty sub-discipline. The certification may be renewed by submitting documentation of updated

training/education.

[16.39.3.8 NMAC - Rp, 16 NMAC 39.3.8, 1/01/2002; A, 7/01/2006; A, 1/01/2007; A, 7/1/2015]

16.39.3.9 APPLICATION - ENGINEERING INTERN AND PROFESSIONAL ENGINEER:

A. Types of applications- licensure as a professional engineer or certification as an engineer intern require that an applicant present his or her qualifications on forms prescribed by the board.

B. Any application, to be complete, must include acceptable replies from references, official transcripts provided directly from the colleges or universities attended; and if applicable, verification of prior examinations taken in other states.

C. Board members shall not be used as references.

D. Applications for engineering intern certification will be accepted after applicant has passed the fundamentals of engineering exam and graduated from a board-approved, four (4)-year engineering curriculum; or graduated from a four (4)-year engineering technology program that is accredited by the technical accreditation commission of the ABET, augmented by at least two (2) years of board-approved, post graduate engineering experience. Applications to take the fundamentals of engineering exam administered by the NCEES will not be required from the state board. Successful passing of the fundamentals of engineering exam does not ensure certification as an engineer intern.

E. Applicants for the principles and practices of engineering examination with an ABET accredited engineering curriculum of four (4) years or more or equivalent as determined by the board shall have a minimum of two (2) years of post-baccalaureate experience acceptable to the professional engineering committee at the date of application and shall have passed the fundamentals of engineering examination. Applicants with an ABET accredited engineering technology degree shall have a minimum of four (4) years of post-baccalaureate experience acceptable to the board at the date of application and shall have passed the fundamentals of engineering examination.

F. No applicant will be eligible to take the professional engineering examination whose application for eligibility has not been completed, reviewed and approved by the board, as set forth in 16.39.3.9 NMAC.

G. Applicants for the professional engineering license will be accepted after applicant has passed the professional engineering exam and has fulfilled the education and experience requirements. Successful passing of the professional engineering exam does not ensure licensure as a professional engineer. To satisfy the statutory requirement for board-approved engineering experience prior to licensure, a candidate with an ABET accredited engineering curriculum of four (4) years or more or equivalent as determined by the board shall have four (4) years of post-baccalaureate experience acceptable to the professional engineering committee, and a candidate with an ABET accredited engineering technology degree shall have six (6) years of post-baccalaureate experience acceptable to the professional engineering committee. After successfully completing the professional engineering examination, an applicant, if necessary to meet the licensing requirements in the New Mexico Engineering and Surveying Practice Act, shall update the application as provided by Subsection H of 61.39.3.9 NMAC.

H. To update a professional engineer (PE) application file in relation to experience, the applicant must complete the appropriate portions of the application form and provide references acceptable to the professional engineering committee to verify each additional experience record.

I. Applications for licensure or certification by examination or comity/endorsement which have been approved by the professional engineering committee shall remain valid for three (3) years from the date of approval.

J. An applicant with foreign credentials requesting licensure by examination or endorsement shall provide to the professional engineering committee's satisfaction, evidence that the applicants' qualifications are equal to, or exceed those in New Mexico.

K. All applicants for PE licensure shall also show proficiency in the English language and shall have a minimum of four (4)-years experience working in the United States under the direction of an engineer who will attest to the applicant's ability and knowledge as a competent engineer.

[16.39.3.9 NMAC - Rp, 16 NMAC 39.3.9, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.3.10 EXAMINATIONS--ENGINEERING INTERN AND PROFESSIONAL ENGINEER:

A. Regularly scheduled examinations shall be held in accordance with NCEES examination schedules.

B. Any applicant that fails an examination will be notified by NCEES.

C. An applicant that has not achieved a passing score on an examination within the three (3) year application period shall only be eligible to take the next scheduled examination after re-submitting a new application and providing detailed documentation to the board of further study in preparation of the exam.

D. The type of examination will be disclosed to the examinee at a time to be set by the NCEES. The examination type will be one (1) of the following:

- (1) an "open book" examination shall be an examination during which the examinee may use reference material as specified by the national council of examiners for engineering and surveying;
- (2) a "closed book" examination shall mean that absolutely no reference material of any shape or form may be used by the examinee except as provided by the board during the examination; or
- (3) a "computer based" examination.

E. Only calculators specified by the NCEES shall be admitted in the examination room during the administration of the licensing examinations.

F. Questions regarding the completed fundamentals of engineering examination or the principles and practice of engineering examination shall be directed to NCEES.

[16.39.3.10 NMAC - Rp, 16 NMAC 39.3.10, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.3.11 PRACTICE OF ENGINEERING:

A. Neither a person nor an organization shall advertise, accept work or offer to practice engineering work in a discipline of engineering unless the person or a member of the organization has been approved by the professional engineering committee in the appropriate discipline and who is legally able to bind that organization by contract.

B. Neither persons nor organizations shall circumvent these rules. Licensees or organizations may advertise for work only in those disciplines of engineering in which they are approved by the professional engineering committee to practice. Nothing in this section is intended to prevent the existence of an association of professionals in different disciplines.

C. In the event a question arises as to the competence of a licensee in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board shall, either upon request of the licensee or of its own volition, require the licensee to pass an appropriate examination.

D. The professional engineering committee will consider the use of the terms, "engineer", "engineering", or any modification or derivative of such terms, in the title of a firm or organization to constitute the offering of engineering. The board will also consider the use of these terms or any modification or derivative of such terms in a corporation's name or its articles of incorporation or in a foreign corporation's certificate of authority as published by the New Mexico public regulation commission to constitute the offering of engineering services.

[16.39.3.11 NMAC - Rp, 16 NMAC 39.3.11, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.3.12 SEAL OF LICENSEE:

A. Each licensed professional engineer shall obtain a seal/stamp, which shall appear on all final engineering design drawings, the certification page of all specifications and engineering reports prepared by the licensee in responsible charge. Adjacent to the seal/stamp shall appear the original signature of the licensee along with the date the signature was applied. Rubber stamps signatures are not acceptable. Electronic signatures as provided by law and board's policy shall be acceptable.

B. The seal/stamp shall be the impression type seal, the rubber type, or a computer-generated facsimile. Computer generated seals shall be bona fide copies of the actual seal/stamp specific to the work being presented.

C. The design of the seal/stamp shall consist of three (3) concentric circles, the outermost circle being one (1) and one-half (1/2) inches in diameter, the middle circle being one (1) inch in diameter, and the innermost circle being one-half (1/2) inch in diameter. The outer ring shall contain the words, PROFESSIONAL ENGINEER" and the licensee's name. The inner ring shall contain the words "NEW MEXICO". The center circle shall contain the license number issued by the board. Any border pattern used by the manufacturer is acceptable.

D. Professional engineers who were licensed prior to the enactment of these current rules and who have maintained that license without lapse, may retain and use the seals, stamps, and wall certificates previously approved.

E. For the purposes of the Engineering and Surveying Practice Act, a licensee of this board has "responsible charge of the work" as defined in Subsection M of Section 61-23-3, NMSA 1978 and may sign, date and seal/stamp plans, specifications, drawings or reports which the licensee did not personally prepare when plans, specifications, drawings or reports have been sealed only by another licensed engineer, and the licensee or persons directly under his personal supervision have reviewed the plans, specifications, drawings or reports and have made tests, calculations or changes in the work as necessary to determine that the work has been completed in a proper

and professional manner.

F. The seal and signature shall be placed on work only when it is under the licensee's responsible charge. The licensee shall sign and seal only work within the licensee's area of discipline.

G. When the document contains more than one (1) sheet, the first or title page shall be sealed and signed by the licensee who was in responsible charge. Two (2) or more licensees may affix their signatures and seals provided it is designated by a note under the seal specific subject matter for which each is responsible. In addition, each sheet shall be sealed and signed by the licensee or licensees responsible for that sheet. When a firm performs the work, each sheet shall be sealed and signed by the licensee or licensees who were in responsible charge of that sheet.

H. An electronic signature, as an option to a permanently legible signature, is acceptable for professional documents. The licensee shall provide adequate security regarding the use of the seal and signature.

I. The board shall recognize that there may be occasions when engineers need to obtain supplemental survey information for the planning and design of an engineering project. An engineer may densify, augment and enhance previously performed survey work by a surveyor for a project as defined in Subsection S of Section 61-23-3 of the Practice Act.

[16.39.3.12 NMAC - Rp, 16 NMAC 39.3.12, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.3.13 ENDORSEMENTS: For the purpose of New Mexico licensees by endorsement from other states, or possessions, the professional engineering committee will only recognize licensure granted by those authorities when the professional engineering committee has determined that the applicant possesses qualifications which "do not conflict with the provisions of the Engineering and Surveying Practice Act and are of standard not lower than that specified in Sections 61-23-14 and 61-23-14.1, NMSA 1978". Conditions establishing eligibility for licensure by endorsement shall have been met at the time of initial licensure. Additionally, the applicant must have a current license in another state, the District of Columbia, a territory or a possession of the United States, or in a foreign country. Conditions for endorsement for licensure as a professional engineer shall be as follows:

A. graduation from an approved engineering curriculum, four (4) years of experience satisfactory to the professional engineering committee, and passing of the eight (8)-hour fundamentals and eight (8)-hour professional examinations; (1979 law and 1987 law);

B. graduation from an ABET accredited engineering technology program, six (6) years of experience satisfactory to the professional engineering committee, and passing of the eight (8)-hour fundamentals examination and 8-hour professional examination (1993 law);

C. licensure prior to July 1, 2002 graduation from an ABET accredited engineering technology program or from an engineering or related science curriculum approved by the committee, six (6) years of experience satisfactory to the professional engineering committee, and passing of the eight (8)-hour fundamentals and eight (8)-hour professional examination (1993 law);

D. licensure prior to July 1, 1993 by graduation from an engineering or related science curriculum other than the ones approved by the committee, eight (8) years of experience satisfactory to the professional engineering committee, and passing of the eight (8)-hour fundamentals and eight (8)-hour professional examination (1979 law and 1987 law);

E. licensure prior to July 1, 1993, by graduation from an engineering or related science curriculum, twenty (20)-years experience satisfactory to the professional engineering committee, and passing the eight (8)-hour professional examination (1979 law and 1987 law);

F. licensure prior to July 1, 1940, by twelve (12) years of experience satisfactory to the professional engineering committee (1934 law);

G. licensure prior to July 1, 1957, by graduation from an approved curriculum, and four (4) years or more of experience satisfactory to the professional engineering committee (1935 law);

H. licensure prior to July 1, 1957, by passing a written and oral examination designed to show knowledge and skill approximating that attained through graduation from an approved curriculum, and four (4) years or more of experience satisfactory to the professional engineering committee (1952 law);

I. licensure prior to July 1, 1967, by twenty-four (24) years of experience satisfactory to the professional engineering committee, and by passing an oral examination (1957 law);

J. licensure prior to July 1, 1967, by graduation from an approved curriculum prior to July 1, 1957, and passing the eight (8)-hour professional examination (1957 law);

K. licensure prior to July 1, 1979, by eight (8) years of experience satisfactory to the professional engineering committee, and by having passed the eight (8)-hour fundamentals and 8-hour professional examinations (1969 law);

L. licensure prior to July 1, 1979, by thirty (30) years of experience, the last twelve (12) years of which must have been of outstanding nature and by having been nationally eminent among his peers (1967 law);

M. for the purposes of endorsement, an approved engineering curriculum shall be an ABET accredited engineering curriculum of four (4) years or more or equivalent as determined by the board.

[16.39.3.13 NMAC - Rp, 16 NMAC 39.3.13, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

HISTORY OF 16.39.3 NMAC:

Pre-NMAC History: The material in part is derived from that previously filed with the state records center & archives under: PELS 67-1 New Mexico Engineering Practice Act, filed 6-22-67; PELS 79-1 New Mexico Engineering and Land Surveying Practice Act, filed 10-29-79; PELS 67-2 By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 6-22-67; PELS 68-1 By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 10-7-68; PELS 69-1 By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 7-3-69; PELS 71-1 Rules of Procedure Manual, filed 1-14-71; PELS 73-1 Rules of Procedure Manual, filed 1-4-73; PELS 75-1 Rules of Procedure Manual, filed 12-15-75; PELS 80-1 Regulations and Rules of Procedure, filed 1-28-80; PE/PS Rule No. 89-1 Regulations and Rules of Procedure, filed 8-15-89; Rule No. 200.1 Regulations and Rules of Procedure - Engineering Disciplines, filed 10-28-94; Rule No. 200.2 Regulations and Rules of Procedure - Application - Engineering Intern and Professional Engineer, filed 10-28-94; Rule No. 200.3 Regulations and Rules of Procedure - Examinations - Engineering Intern and Professional Engineer, filed 10-28-94; Rule No. 200.4 Regulations and Rules of Procedure - Practice of Engineering, filed 10-28-94; Rule No. 200.5 Regulations and Rules of Procedure - Seals of Registrant licensee, filed 10-28-94; Rule No. 200.6 Regulations and Rules of Procedure - Endorsements, filed 10-28-94.

History Repealed Material:

16 NMAC 39.3 (filed 03-31-1998) repealed 01/01/2002).

Other History:

Rule No. 200.1 Regulations and Rules of Procedure - Engineering Disciplines (filed 10-28-94); Rule No. 200.2 Regulations and Rules of Procedure - Application - Engineering Intern and Professional Engineer (filed 10-28-94); Rule No. 200.3 Regulations and Rules of Procedure - Examinations - Engineering Intern and Professional Engineer (filed 10-28-94); Rule No. 200.4 Regulations and Rules of Procedure - Practice of Engineering (filed 10-28-94); Rule No. 200.5 Regulations and Rules of Procedure - Seals of Registrant licensee (filed 10-28-94); and Rule No. 200.6 Regulations and Rules of Procedure - Endorsements (filed 10-28-94) were **all** renumbered, reformatted and replaced by 16 NMAC 39.3, Engineering--Certificates of Registration, Disciplines, Applications, Exams, Practice, Seal of Registrant and Endorsements, effective 04-15-1998.

16 NMAC 39.3, Engineering--Certificates of Registration, Disciplines, Applications, Exams, Practice, Seal of Registrant and Endorsements was renumbered, reformatted and replaced by 16.39.3 NMAC, Engineering--Certificates of Licensure, Disciplines, Applications, Exams, Practice, Seal of Registrant and Endorsements, effective 1/01/2002.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS
PART 4 INCIDENTAL PRACTICE

16.39.4.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Professional Surveyors, 2550 Cerrillos Road, Santa Fe, NM 87505, telephone no. (505) 476-4565.
[16.39.4.1 NMAC - Rp, 16 NMAC 39.4.1, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.4.2 SCOPE: Provisions for Part 4 apply to any person licensed as a professional engineer.
[16.39.4.2 NMAC - Rp, 16 NMAC 39.4.2, 1/01/2002]

16.39.4.3 STATUTORY AUTHORITY: NMSA 1978, Section 61-23-10 (B) prescribes that “The board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying...(C) The professional engineering committee shall adopt and promulgate rules of professional responsibility exclusive to the practice of engineering. All such bylaws and rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act.” NMSA 1978, Section 61-23-10 (K) states “The board, in cooperation with the board of examiners for architects and the board of landscape architects shall create a joint standing committee to be known as the 'joint practice committee'.” “(L) As used in the Engineering and Surveying Practice Act, 'incidental practice' shall be defined by identical regulations of the board of licensure for professional engineers and professional surveyors and the board of examiners for architects.”
[16.39.4.3 NMAC - Rp 16 NMAC 39.4.3, 1/01/2002; A, 7/01/2006]

16.39.4.4 DURATION: Permanent
[16.39.4.4 NMAC - Rp, 16 NMAC 39.4.4, 1/01/2002]

16.39.4.5 EFFECTIVE DATE: January 1, 2002, unless a later date is cited at the end of a section.
[16.39.4.5 NMAC - Rp, 16 NMAC 39.4.5, 1/01/2002]

16.39.4.6 OBJECTIVE: The objective of Part 4 of Chapter 39 is to define architectural work incidental to engineering and engineering work incidental to architecture as approved by the Joint Practice Committee and as an identical rule to 16.30.1.7.12 NMAC (Board of Examiners for Architects).
[16.39.4.6 NMAC - Rp, 16 NMAC 39.4.6, 1/01/2002]

16.39.4.7 DEFINITIONS: [RESERVED]
[16.39.4.7 NMAC - Rp, 16 NMAC 39.4.7, 1/01/2002]

16.39.4.8 INCIDENTAL PRACTICE OF ARCHITECTURE AND ENGINEERING - as defined in Section 61-23-22(A) NMSA 1978 means:

A. architectural work incidental to engineering shall be that architectural work provided on projects with a building construction value not greater than six hundred thousand dollars (\$600,000) and having a total occupant load not greater than fifty (50);

B. engineering work incidental to architecture shall be that engineering work provided on projects with a building construction value not greater than six hundred thousand dollars (\$600,000) and having a total occupant load not greater than fifty (50);

C. all buildings and related structures within the regulatory provisions of the New Mexico Uniform Building Code (NMUBC) will require the proper authentication of the building construction documents by all participating disciplines in accordance with their respective governing acts on projects with a building construction value greater than six hundred thousand dollars (\$600,000) or having a total occupant load greater than fifty (50), with the exception of:

- (1) single-family dwellings not more than two (2) stories in height;
- (2) multiple dwellings not more than two (2) stories in height containing not more than four (4) dwelling units of wood-frame construction; provided this paragraph shall not be construed to allow a person who

is not registered under the Architectural Act to design multiple clusters of up to four (4) dwelling units each to form apartment or condominium complexes where the total exceeds four (4) dwelling units on any lawfully divided lot;

(3) garages or other structures not more than two (2) stories in height which are appurtenant to buildings described in Paragraph (1) and (2) of Subsection C of 16.39.4.8 NMAC; or

(4) nonresidential buildings, as defined in the uniform building code, or additions having a total occupant load of ten (10) or less and not more than two (2) stories in height, which shall not include E-3 (Day Care), H (Hazardous), or I (Institutional) occupancies;

(5) alterations to buildings or structures which present no unusual conditions, hazards or change of occupancy.

D. the owner, user or using agency shall select the prime design professional (architect or engineer) for any project based on the requirements and nature of the project;

E. occupant load shall be defined and determined by the method set forth in Table 33-A of the Uniform Building Code (UBC).

[16.39.4.8 NMAC - Rp, 16 NMAC 39.4.8, 1/01/2002; A, 7/1/2015]

HISTORY OF 16.39.4 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the state records center & archives under: PE/PS Rule 92-1, Definitions, filed 1-30-92 and Rule No. 300.1 Regulations and Rules of Procedure - Incidental Practice of Architecture and Engineering, filed 10-28-94.

History of Repealed Material:

16 NMAC 39.4, Incidental Practice of Architecture and Engineering (filed 03-31-98) repealed 01-01-2002.

Other History:

Rule No. 300.1 Regulations and Rules of Procedure - Incidental Practice of Architecture and Engineering (filed 10-28-94) was renumbered, reformatted and replaced by 16 NMAC 39.4, Incidental Practice of Architecture and Engineering, effective 04-15-1998.

16 NMAC 39.4, Incidental Practice of Architecture and Engineering (filed 03-31-98) was renumbered, reformatted and replaced by 16.39.4 NMAC, Incidental Practice, 01-01-2002.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS
PART 5 SURVEYING--APPLICATIONS, EXAMINATIONS, PRACTICE OF SURVEYING,
SEAL OF LICENSEE

16.39.5.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Professional Surveyors, 2550 Cerrillos Road, Santa Fe, NM 87505, telephone no. (505) 476-4565.
[16.39.5.1 NMAC - Rp, 16 NMAC 39.5.1, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.5.2 SCOPE: Provisions for Part 5 apply to any person certified as a Surveyor Intern, licensed as a professional surveyor, or to anyone applying for certification as a Surveyor Intern or licensure as a professional surveyor in New Mexico.
[16.39.5.2 NMAC - Rp, 16 NMAC 39.5.2, 1/01/2002]

16.39.5.3 STATUTORY AUTHORITY: NMSA 1978, Section 61-23-10 (B) prescribes that “the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying...(D) The professional surveying committee shall adopt and promulgate rules of professional responsibility exclusive to the practice of surveying. All such bylaws and rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act.”
[16.39.5.3 NMAC - Rp, 16 NMAC 39.5.3, 1/01/2002; A, 7/01/2006]

16.39.5.4 DURATION: Permanent
[16.39.5.4 NMAC - Rp, 16 NMAC 39.5.4, 1/01/2002]

16.39.5.5 EFFECTIVE DATE: January 1, 2002, unless a later date is cited at the end of a section.
[16.39.5.5 NMAC - Rp, 16 NMAC 39.5.5, 1/01/2002]

16.39.5.6 OBJECTIVE: The objective of Part 5 of Chapter 39 is to clearly define the application and examination procedures, practice of surveying, and seal of licensee.
[16.39.5.6 NMAC - Rp, 16 NMAC 39.5.6, 1/01/2002]

16.39.5.7 DEFINITIONS:

- A.** “ABET” is defined as the accreditation board for engineering and technology.
- B.** “Board-approved, four (4)-year curriculum in surveying” is defined as:
 - (1) surveying curriculum of at least four (4) years that has been accredited by ABET within at least three (3) years of the applicant’s graduation with a bachelor’s degree in surveying;
 - (2) curriculum not accredited by ABET but with a minimum number of surveying credits required for accreditation by ABET;
- C.** “Board-approved related science degree” is defined as:
 - (1) A four (4)-year bachelor of arts or science degree that contains a minimum of eighteen (18) core curriculum hours in surveying, twelve (12) hours of higher mathematics and six (6) hours of basic science.
 - (2) Core surveying classes shall include a minimum of a three (3)-hour semester course in each of the following areas:
 - (a) boundary law/ legal principles of land surveying;
 - (b) public land surveying system (PLSS);
 - (c) plane surveying;
 - (d) geodesy or photogrammetry.
 - (3) The remainder of the eighteen (18) core curriculum hours in surveying may include classes in route surveying, geographic information systems, land development, global positioning systems, photogrammetry or geodesy, mapping professional ethics and remote sensing.
 - (4) Twelve (12) hours of higher mathematics may include college algebra, trigonometry, analytical geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistic and advanced calculus.

(5) Six (6) hours of basic science may include physics, chemistry, geology, physical geography, biology and astronomy.
[16.39.5.7 NMAC - Rp, 16 NMAC 39.5.7, 1/01/2002; A, 7/1/2015]

16.39.5.8 APPLICATION - SURVEYOR INTERN AND PROFESSIONAL SURVEYOR:

A. Types of application - licensure as a professional surveyor or certification as a survey intern require that an applicant present his or her qualifications on forms prescribed by this board.

B. Any application, to be complete, must include acceptable replies from references, official transcript(s) provided directly from the university; and if applicable, verification(s) of prior examinations taken in other state(s).

C. Board members shall not be used as references.

D. Applications for surveying intern certification will be accepted after an applicant has passed the fundamentals of surveying exam and has graduated from a board-approved, four (4)-year surveying curriculum, or if a graduate of an approved four (4)-year curriculum in a related science as defined by Subsection C of 16.39.5.7 NMAC above and augmented with four (4) years of combined office and field board approved surveying experience obtained under the direction of a licensed professional surveyor. Class time will not be counted in the four (4) years of experience, but work prior to or while attending school may be counted toward the four (4) years of required experience at the discretion of the board.

E. Applicants for the principles and practices of surveying examination having graduated with a board-approved four (4)-year surveying curriculum of four (4) years or more, or with a related-science degree, as determined by the board shall have a minimum of four (4) years of experience acceptable to the professional surveying committee at the date of application and shall have passed the fundamentals of surveying examination.

F. No applicant will be eligible to take the professional surveying examination whose application for eligibility has not been completed, reviewed and approved by the board, as set forth in 16.39.5.8 NMAC.

G. Applicants for the professional surveying license will be accepted after applicant has passed the professional surveying exam and has fulfilled the education and experience requirements. Successful passing of the professional surveying exam does not ensure licensure as a professional surveyor. To satisfy the statutory requirement for board-approved surveying experience prior to licensure, a candidate with a board-approved surveying curriculum of four (4) years or more as determined by the board shall have four (4) years of experience acceptable to the professional surveying committee. This experience may be acquired before or after certification as a surveying intern. A candidate with a related science degree shall have four (4) years of surveying experience acceptable to the professional surveying committee subsequent to certification as a surveying intern. After successfully completing the professional surveying examination, an applicant, if necessary to meet the licensing requirements in the New Mexico Engineering and Surveying Practice Act, shall update the application as provided by Subsection H of 61.39.5.8 NMAC.

H. To update a professional survey (PS) application file in relation to experience, the applicant must complete an application update form and provide references acceptable to the professional surveying committee to verify each additional experience record.

I. Applications for licensure or certification by examination, comity or endorsement which have been approved by the professional surveying committee shall remain valid for three (3) years from the date of approval.

J. An applicant with foreign credentials requesting licensure by examination or endorsement shall provide to the professional surveying committee's satisfaction, evidence that the applicant's qualifications are equal to or exceed the qualifications for licensure in effect in New Mexico at the time of application.

K. All applicants for professional surveyor license shall show proficiency in the English language and shall have a minimum of four (4) years of experience if a graduate of a board approved, four (4) year surveying curriculum or eight (8) years if a graduate of a board approved related science curriculum, working in the United States under the direction of a licensed professional surveyor who can attest to the applicant's ability and knowledge as a competent surveyor.

[16.39.5.8 NMAC - Rp, 16 NMAC 39.5.8, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 1/1/2016]

16.39.5.9 EXAMINATIONS--SURVEYOR INTERN AND PROFESSIONAL SURVEYOR:

A. Regularly scheduled examinations shall be held in accordance with NCEES examination schedules. Other examinations may be held at times and places as determined by the professional surveying committee.

B. An applicant that fails the New Mexico state specific surveying examination will be notified of the

next available examination sessions. A written request to retake the examination and payment of the examination fee shall be on or before the specified date set by the board. Any applicant that fails a NCEES examination will be notified by NCEES.

C. An applicant that has not achieved a passing score on an examination within the three (3) year application period shall only be eligible to take the next scheduled examination after re-submitting a new application and providing detailed documentation to the board of further study in preparation of the exam.

D. The type of examination will be disclosed to the examinee at a time to be set by the NCEES. The examination type will be one of the following:

(1) an "open book" examination shall be an examination during which the examinee may use reference material as specified by the national council of examiners for engineering and surveying;

(2) a "closed book" examination shall mean that absolutely no reference material of any shape or form may be used by the examinee except as provided by the board during the examination; or

(3) a "computer based" examination.

E. Only calculators specified by the NCEES shall be admitted in the examination room during the administration of the licensing examinations.

F. An applicant who has a question regarding the New Mexico state specific surveying examination shall put the question in writing to the professional surveying committee. The question will be considered at the next professional surveying committee meeting. The committee's answer to the examinee shall be in writing. Questions regarding the completed fundamental of surveying examination or the principles and practice surveying examination shall be directed to NCEES.

[16.39.5.9 NMAC - Rp, 16 NMAC 39.5.9, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.5.10 PRACTICE OF SURVEYING:

A. A person or any organization shall not advertise or offer to practice surveying work or accept such work unless that person or a member of the organization is licensed by the board and is legally able to bind that organization by contract.

B. Neither persons nor organizations shall circumvent these rules.

C. Nothing in this section is intended to prevent the existence of an association of professionals in different disciplines.

D. The board will consider the use of the terms, "surveyor", "surveying" or any modification or derivative of such terms, in the title of a firm or organization to constitute the offering of surveying services. The board also considers the use of these terms or any modification or derivative of such terms in a domestic corporation's articles of incorporation or in a foreign corporation's certificate of authority as published by the New Mexico's secretary of state to constitute the offering of surveying services.

[16.39.5.10 NMAC - Rp, 16 NMAC 39.5.10, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.5.11 SEAL OF LICENSEE:

A. Each licensed professional surveyor shall obtain a seal/stamp which must be impressed on all plats, reports, etc., prepared by the licensee in responsible charge. Adjacent to the seal/stamp shall appear the original signature of the licensee along with the date the signature was applied. Rubber stamps and all facsimiles of signatures are not acceptable. Electronic signature as provided by law and board's policy shall be acceptable.

B. The seal/stamp shall be either the impression type seal, the rubber type, or a computer-generated facsimile. Computer-generated seals shall be bona fide copies of the actual seal/stamp specific to the work being presented.

C. The design of the seal/stamp shall consist of three concentric circles, the outermost one (1) being one and one-half (1 ½) inches in diameter, the middle circle being one (1) inch in diameter and the innermost circle being one-half (½) inch in diameter. The outer ring shall contain the words, "Professional Surveyor", and the licensee's name. The inner ring shall contain the words "New Mexico". The center circle shall contain the license number issued by the board. Any border pattern used by the manufacturer is acceptable.

D. Professional surveyors who were licensed prior to the enactment of these current rules and who have maintained that license without lapse, may retain and use the seals, stamps, and wall certificates previously approved.

E. The seal and signature shall be placed on work only when it was under the licensee's responsible charge. The licensee shall sign and seal only work within the licensee's area of discipline.

F. When the document contains more than one (1) sheet, the first or title page shall be sealed and signed by the licensee who was in responsible charge. Two (2) or more licensees may affix their signatures and

seals provided it is designated by a note under the seal the specific subject matter for which each is responsible. In addition, each sheet shall be sealed and signed by the licensee or licensees responsible for that sheet. When a firm performs the work, each sheet shall be sealed and signed by the licensee or licensees who were in responsible charge of that sheet.

G. An electronic signature, as an option to a permanently legible signature, is acceptable for professional documents. The licensee shall provide adequate security regarding the use of the seal and signature. [16.39.5.11 NMAC - Rp, 16 NMAC 39.5.11, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.5.12 ENDORSEMENTS: For the purpose of New Mexico licensees by endorsement from other states, or possessions, the professional surveying committee will only recognize licensure granted by those authorities when the professional surveying committee has determined that the applicant possesses qualifications which “do not conflict with the provisions of the Engineer and Surveying Practice Act and are of standard not lower than that specified in Sections 61-23-27.3 and 61-23-27.4 NMSA 1978”. Conditions establishing eligibility for licensure by endorsement shall have been met at the time of initial licensure. Additionally, the applicant must have a current license in another state, the District of Columbia, a territory or a possession of the United States, or in a foreign country. Conditions for endorsement for licensure as a professional surveyor shall be as follows:

A. Graduation from a four (4)-year board-approved surveying curriculum, four (4) years of experience satisfactory to the professional surveying committee, and passing of the fundamentals of surveying and professional surveying examinations (1995 law).

B. Graduation from an engineering or related science curriculum that are approved by the committee and augmented with eighteen (18) semester hours of surveying, eight (8) years of experience satisfactory to the professional surveying committee, and passing of the eight (8) hour fundamentals and eight (8) hour professional examinations (1995 law).

C. Licensure prior to July 1, 1995 by graduation from a two (2) year board-approved surveying or associated curriculum, eight (8) years of experience satisfactory to the professional surveying committee and passing of the eight (8) hour fundamentals and eight (8) hour professional examination.

D. Licensure prior to July 1, 1995 by graduation from a board- approved surveying or associated curriculum of at least forty-five (45) semester hours, eight (8) years of experience satisfactory to the professional surveying committee, and passing of the eight (8) hour fundamentals and eight (8) hour professional examination;

E. Licensure prior to July 1, 1979, eight (8) years of experience satisfactory to the professional surveying committee and passing of the eight (8) hour fundamentals and eight (8) hour professional examinations. [16.39.5.12 NMAC - N, 7/1/2015]

HISTORY OF 16.39.5 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the state records center & archives under: PELS 79-1, New Mexico Engineering Practice Act, filed 6-22-67; PELS 79-1 New Mexico Engineering and Land Surveying Practice Act, filed 10-29-79; PELS 67-2, By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 06-22-67; PELS 68-1, By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 10-07-68; PELS 69-1, By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 07-03-69; PELS 71-1, Rules of Procedure Manual, filed 01-14-71; PELS 73-1, Rules of Procedure Manual, filed 01-04-73; PELS 75-1, Rules of Procedure Manual, filed 12-15-75; PELS 80-1, Regulations and Rules of Procedure, filed 01-28-80; PE/PS Rule No. 89-1, Regulations and Rules of Procedure, filed 08-15-89; Rule No. 400.1, Regulations and Rules of Procedure - Application - Surveyor Intern and Professional Surveyor, filed 10-28-94; Rule No. 400.2, Regulations and Rules of Procedure - Examinations - Surveyor Intern and Professional Surveyor, filed 10-28-94; Rule No. 400.3, Regulations and Rules of Procedure - Practice of Surveying, filed 10-28-94; Rule No. 400.4, Regulations and Rules of Procedure - Seal of Registrant licensee, filed 10-28-94.

History of Repealed Material:

16 NMAC 39.5, Surveying--Applications, Examinations, Practice of Surveying, Seal of Registrant (filed 03-31-98) repealed 01-01-2002).

Other History:

Rule No. 400.1, Regulations and Rules of Procedure - Application - Surveyor Intern and Professional Surveyor (filed 10-28-94); Rule No. 400.2, Regulations and Rules of Procedure - Examinations - Surveyor Intern and Professional Surveyor (filed 10-28-94); Rule No. 400.3, Regulations and Rules of Procedure - Practice of Surveying

(filed 10-28-94); Rule No. 400.4, Regulations and Rules of Procedure - Seal of Registrant licensee (filed 10-28-94) were all renumbered, reformatted and replaced by 16 NMAC 39.5, Surveying--Applications, Examinations, Practice of Surveying, Seal of Registrant, effective 04-15-1998.

16 NMAC 39.5, Surveying--Applications, Examinations, Practice of Surveying, Seal of Registrant (filed 03-31-98) was renumbered, reformatted and replaced by 16.39.5 NMAC, Surveying--Applications, Examinations, Practice of Surveying, Seal of Licensee, effective 01-01-2002.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS
PART 6 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS

16.39.6.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Professional Surveyors, 2550 Cerrillos Road, Santa Fe, NM 87505, telephone no. (505)476-4565.
[16.39.6.1 NMAC - N, 7/1/2015]

16.39.6.2 SCOPE: This part sets forth application procedures to expedite licensure for military service members, spouses and veterans.
[16.39.6.2 NMAC - N, 7/1/2015]

16.39.6.3 STATUTORY AUTHORITY: Section 61-23-10 (B) NMSA 1978 prescribes that “the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying.” 16.39.1 NMAC applies to both engineering and surveying.
[16.39.6.3 NMAC - N, 7/1/2015]

16.39.6.4 DURATION: Permanent.
[16.39.6.4 NMAC - N, 7/1/2015]

16.39.6.5 EFFECTIVE DATE: July 1, 2015, unless a later date is cited at the end of a section.
[16.39.6.5 NMAC - N, 7/1/2015]

16.39.6.6 OBJECTIVE: The purpose of this part is to expedite licensure for military service members, spouses and veterans pursuant to Section 61-23-10 (B) NMSA 1978.
[16.39.6.6 NMAC - N, 7/1/2015]

16.39.6.7 DEFINITIONS:

A. Military service member: means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.

B. Recent veteran: means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.
[16.39.6.7 NMAC - N, 7/1/2015]

16.39.6.8 APPLICATION REQUIREMENTS:

A. Applications for licensure shall be completed on a form provided by the department.

B. The information shall include:

(1) completed application and fee;

(2) satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of armed forces of the United States, that has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for the occupational or professional license the applicant applies for pursuant to Chapter 61, Article 23 NMSA 1978.

[16.39.6.8 NMAC - N, 7/1/2015]

16.39.6.9 RENEWAL REQUIREMENTS:

A. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance and for the renewal of a license pursuant to Chapter 61, Article 23 NMSA 1978.

B. The licensee must submit the following documents at the time of renewal:

(1) applicants, with board-approved engineering/surveying degrees shall submit their official transcript(s) provided directly from the university;

(2) applicants with an accreditation board for engineering and technology (ABET) accredited engineering technology degree shall submit their official transcript(s) provided directly from the university;

(3) acceptable replies from five (5) references, pursuant to Section 61-23-10 (B) NMSA 1978.

C. Every license shall automatically expire if not renewed on or before December 31 of the applicable biennial period pursuant Section 61-23-10 (B) NMSA 1978.
[16.39.6.9 NMAC - N, 7/1/2015]

HISTORY OF 16.39.6 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS
PART 7 MISC--PROCEDURES FOR REVOCATION, SUSPENSION, IMPOSITION OF FINES,
REISSUANCE OF CERTIFICATES AND DISCIPLINARY ACTION

16.39.7.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Professional Surveyors, 2550 Cerrillos Road, Santa Fe, NM 87505, telephone no. (505) 476-4565.
[16.39.7.1 NMAC - Rp, 16 NMAC 39.7.1, 1/01/2002; A, 7/01/2006; A, 7/01/2015]

16.39.7.2 SCOPE: Provisions for Part 7 apply to persons certified as engineer interns or surveyor interns, persons licensed as, professional engineers or professional surveyors, applicants for either licensure or certification, and persons who engage in the business or act in the capacity of a professional engineer or professional surveyor without being licensed by the board.
[16.39.7.1 NMAC - Rp 16 NMAC 39.7.2, 1/01/2002; A, 7/01/2006]

16.39.7.3 STATUTORY AUTHORITY: NMSA 1978, Section 61-23-10 (B) prescribes that "the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying." Part 7 applies to both engineering and surveying.
[16.39.7.3 NMAC - Rp 16 NMAC 39.7.3, 1/01/2002; A, 7/01/2006]

16.39.7.4 DURATION: Permanent
[16.39.7.4 NMAC - Rp, 16 NMAC 39.7.4, 1/01/2002]

16.39.7.5 EFFECTIVE DATE: January 1, 2002, unless a later date is cited at the end of a section.
[16.39.7.5 NMAC - Rp, 16 NMAC 39.7.5, 1/01/2002]

16.39.7.6 OBJECTIVE: The objective of Part 7 is to define procedures for revocation, suspension, imposition of fines, reissuance of certificates and disciplinary action. It is also to define actions constituting violations of the Act.
[16.39.7.6 NMAC - Rp, 16 NMAC 39.7.6, 1/01/2002]

16.39.7.7 DEFINITIONS: [RESERVED]
[16.39.7.7 NMAC - Rp, 16 NMAC 39.7.7, 1/01/2002]

16.39.7.8 REVOCATION, SUSPENSION, IMPOSITION OF FINES, REISSUANCE OF LICENSES
AND CERTIFICATES AND DISCIPLINARY ACTION:

A. The board may impose fines as may be determined by the nature of the violation pursuant to Section 61-23-24 and 61-23-27.11 NMSA 1978.

B. A lost, mutilated or destroyed certificate shall be replaced only upon the written request of the licensee and payment of the required fee. The reissued certificate shall show the original license number and original date, shall be signed by the current chair and secretary of the board in office at that date, and shall carry the notation "Reissued (DATE) ."
[16.39.7.8 NMAC - Rp, 16 NMAC 39.7.8, 1/01/2002; A, 7/01/2015]

16.39.7.9 VIOLATIONS:

A. For organizations using the words "engineering" or "surveying" in their titles or offering engineering or surveying services, the board's executive director shall write the organization, enclosing an affidavit to be completed which identifies the member of the organization who is licensed to practice in the state of New Mexico and who is legally able to bind the organization by contract. If no response to this request is received within thirty (30) days, a second letter shall be sent by certified mail, return receipt requested. If the second letter does not result in a response thirty (30) days from the receipt of a refusal, the matter may be turned over to the attorney general's office for action.

B. It shall be considered "a violation" under Paragraph (1) of Section 61-23-24 (A) (2005) and

Paragraph (1) of Section 61-23-27.11(A) NMSA 1978 of the Engineering and Surveying Practice Act for any engineer or surveyor to practice or offer to practice outside their field(s) of demonstrated competence or in contravention of any of the provisions of these rules. It shall also be considered "a violation" under Section 61-23-23.1 (A) (2003) and Section 61-23-27.15(A) (2003) NMSA 1978 of the Engineering and Surveying Practice Act for any person to act in the capacity of a professional engineer or a professional surveyor without being licensed by the board.

C. The practice or offer to practice engineering by a licensee of the board in any state, territory or country where the licensee has been determined to be in violation of that jurisdiction's licensing requirement shall be considered to be professional misconduct which may be actionable by the board. The practice or offer to practice surveying by a licensee of the board in any state, territory, or country where the licensee has been determined to be in violation of that jurisdiction's licensing requirement shall be considered to be professional misconduct which may be actionable by the board.

D. Each applicant or licensee shall notify the board, in writing, within ninety (90) days, of the imposition of any disciplinary action by any other applicable licensing board or any conviction of or entry of plea of nolo contendere to any crime under the laws of the United States, or any state, territory or county thereof, which is a felony, whether related to practice or not; any conviction of or entry of plea of nolo contendere to any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is moral turpitude, or which is directly related to the practice of engineering or surveying.

E. The board shall comply with the provisions of the Parental Responsibility Act as they relate to the denial, suspension or revocation of certificates of licensure for non-payment of child support.

[16.39.7.9 NMAC - Rp 16 NMAC 39.7.9, 1/01/2002; A, 7/01/2006; A, 7/01/2015]

HISTORY OF 16.39.7 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the state records center and archives under: PELS 67-2, By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 6-22-67; PELS 68-1, By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 10-7-68; PELS 69-1, Bylaws of State Board of Registration for Professional Engineers and Land Surveyors, filed 7-3-69; PELS 71-1, Rules of Procedure Manual, filed 1-14-71; PELS 73-1, Rules of Procedure Manual, filed 1-4-73; PELS 75-1, Rules of Procedure Manual, filed 12-15-75; PELS 80-1, Regulations and Rules of Procedure, filed 1-28-80; Rule PE/PS Rule No. 89-1, filed 8-15-89; Rule No. 600.1, Regulations and Rules of Procedure - Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action, filed 10-28-94; Rule No. 600.2, Regulations and Rules of Procedure - Violations, filed 10-28-94; Rule No. 600.2, Amendment 1, filed 10-18-95; and Rule No. 600.2, Amendment 2, filed 12-12-95.

History of Repealed Material:

16 NMAC 39.7, Misc.--Procedures for Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action (filed 03-31-1998) was repealed 01-01-2002.

Other History:

Rule No. 600.1, Regulations and Rules of Procedure - Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action (filed 10-28-94) and Rule No. 600.2, Regulations and Rules of Procedure - Violations (filed 10-28-94); were renumbered, reformatted and replaced by 16 NMAC 39.7, Misc.--Procedures for Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action, effective 04-15-1998.

16 NMAC 39.7, Misc.--Procedures for Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action (filed 03-31-1998) was renumbered, reformatted and replaced by 16.39.7 NMAC, 16 NMAC 39.7, Misc.--Procedures for Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action, effective 01-01-2002.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS
PART 8 CODE OF PROFESSIONAL CONDUCT--ENGINEERING AND SURVEYING

16.39.8.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Professional Surveyors, 2550 Cerrillos Road, Santa Fe, NM 87505, telephone no. (505) 476-4565.
[16.39.8.1 NMAC - Rp, 16 NMAC 39.8.1, 1/01/2002; A, 7/01/2006; A, 7/1/2015]

16.39.8.2 SCOPE: Provisions for part 8 apply to persons certified as engineer interns or surveyor interns, licensed as professional engineers or professional surveyors or anyone applying for certification as an engineer intern or surveyor intern or licensed as a professional engineer or professional surveyor.
[16.39.8.2 NMAC - Rp, 16 NMAC 39.8.2, 1/01/2002; A, 7/01/2006]

16.39.8.3 STATUTORY AUTHORITY: NMSA 1978, Section 61-23-10 (B) prescribes that "the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying." Part 8 applies to both engineering and surveying.
[16.39.8.3 NMAC - Rp, 16 NMAC 39.8.3, 1/01/2002; A, 7/01/2006]

16.39.8.4 DURATION: Permanent
[16.39.8.4 NMAC - Rp, 16 NMAC 39.8.4, 1/01/2002]

16.39.8.5 EFFECTIVE DATE: January 1, 2002, unless a later date is cited at the end of a section.
[16.39.8.5 NMAC - Rp, 16 NMAC 39.8.5, 1/01/2002]

16.39.8.6 OBJECTIVE: The objective of part 8 is to establish and maintain rules of professional conduct for professional engineers and professional surveyors.
[16.39.8.6 NMAC - Rp, 16 NMAC 39.8.6; 1/01/2002; A, 7/01/2006]

16.39.8.7 DEFINITIONS: In these Rules of Professional Conduct, the word "licensee" shall mean any person holding a current license or certification issued by the Board.
[16.39.8.7 NMAC - Rp, 16 NMAC 39.8.7, 1/01/2002]

16.39.8.8 PREAMBLE:

A. In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following Rules of Professional Conduct shall apply to every person holding a certificate of licensure to perform engineering or surveying services in the State of New Mexico.

B. The Rules of Professional Conduct as promulgated herein are an exercise of the regulatory power vested in the Board by virtue of the acts of the legislature. These rules are in addition to but are not intended to supersede, the provisions of the New Mexico Engineering and Surveying Practice Act.

C. All persons licensed under the New Mexico Engineering and Surveying Practice Act are charged with having knowledge of the existence of these Rules of Professional Conduct and shall be deemed to be familiar with the provisions of these rules and to understand them. Such knowledge shall encompass understanding these rules of Professional Conduct and failure to follow these rules may be considered misconduct by the Board.
[16.39.8.8 NMAC - Rp, 16 NMAC 39.8.8, 1/01/2002]

16.39.8.9 RULES OF PROFESSIONAL CONDUCT:

A. The protection of the public safety, health, welfare and property in the performance of professional duties.

(1) In order to protect public safety, health, welfare and property in the performance of their professional duties, licensees shall at all times:

(a) Perform those duties in conformance with accepted engineering and surveying practices.

(b) Notify their employer or client and such other authority as may be appropriate of

any instance in which their professional judgment is overruled under circumstances endangering the public safety, health, welfare or property.

(c) Approve and seal only those engineering and surveying documents which conform to applicable engineering and surveying standards.

(d) Shall not reveal privileged or confidential facts, data or information without prior consent of the client or employer except as authorized or required by law or this code.

(e) Refuse to associate in a business venture with any person or firm whom they may have reason to believe is engaging in fraudulent or dishonest business or professional practices as an engineer or surveyor and refuse to use or permit the use of their name or firm in connection with any such business venture.

(f) Inform the board of any violation of this code. Cooperate with the board in furnishing information or assistance as may be requested by the board in matters concerning violations.

(g) Shall not assist or participate in the unlawful practice of engineering and surveying by a person or firm.

B. Specialization and the performance of services only in specific areas of competence.

(1) Licensees shall undertake assignments only when qualified by education, experience or examination in the specific technical fields of engineering or surveying involved.

(2) Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competency, nor to any such plan or documents not prepared under their responsible charge.

(3) Licensees may accept an assignment when the total work involves technical fields beyond those in which they are qualified, providing their services are limited to those phases in which they are qualified and that the phases in which they are not qualified are performed by licensees who are properly qualified. In this instance, each qualified licensee will sign and seal the documents for their phase of the assignment.

C. The issuance of public statements.

(1) Licensees shall be objective and truthful in professional reports, statements or testimony. A professional report or professional opinion issued by or under the responsible charge of a licensee shall not contain any intentionally false, misleading or deceitful statements or testimony. Any report, statement or testimony by a licensee shall contain all relevant and pertinent information as required by accepted engineering or surveying principles.

(2) If a licensee issues statements on technical matters in his or her capacity as a professional engineer or professional surveyor on behalf of an interested party, the licensee must expressly preface his or her remarks by identifying said interested party and by revealing the existence and nature of any interest the licensee may have in the matter.

(3) A licensee who is competent in the subject matter may express publicly technical opinions that are found upon knowledge of the facts.

D. Professional relationships with employer or client.

(1) Licensees shall act in professional matters for each employer or client as fiduciaries and shall avoid conflicts of interest. Licensees shall disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any business association, interest or other circumstances which could reasonably be expected to influence their judgment or the quality of their services.

(2) Licensees shall not accept compensation, financial or otherwise, from more than one party for services on the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.

(3) Licensees shall not solicit or accept any gratuity, material favor, or any valuable consideration, directly or indirectly, from contractors, their agents, servants or employees or from any other party dealing with his client or employer in connection with any project for which he is performing or has contracted to perform engineering or surveying services. (The phrase "valuable consideration" is defined to mean any act, article, money or other material possession which is of such value or proportion that its acceptance creates a clandestine obligation on the part of the receiver or otherwise compromises his ability to exercise his own judgment.)

(4) Licensees in public service as a member or employee of a governmental body, agency or department shall not participate, directly or indirectly in deliberations or actions which would constitute a conflict of interest with respect to services offered or provided by him, his associates, or the licensee's organization to such governmental body, agency or department.

(5) Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member, except upon public disclosure of all pertinent facts and circumstances and consent of appropriate public authority.

(6) Licensees shall not reveal privileged or confidential facts, data or information obtained in a professional capacity without prior consent of the client or employer except:

(a) As provided in Subparagraph (b) and (f) of Paragraph (1) of Subsection A of 16.39.8.9 NMAC.

(b) As authorized or required by law.

(c) Any document that is a matter of public record by virtue of it being on file with a public agency.

(d) Any fact, data or information which is clearly the property of the engineer or surveyor.

E. Solicitation of professional employment.

(1) Licensees shall not falsify or permit misrepresentation of their, or their associates' academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or other representations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments with the intent and purpose of enhancing their qualifications and their work.

(2) Licensees shall not offer, give, solicit or receive, either directly or indirectly, any commission, gift, or other valuable consideration in order to secure or influence the award of work and shall not make any political contribution in an amount intended to influence the award of a contract by public authority, and which may be reasonably construed by the public as having the effect or intent to influence the award of a contract.

F. Avoiding conduct or practice that deceives the public.

(1) Licensees shall avoid the use of a statement containing a material misrepresentation of a fact or omitting a material fact.

(2) Consistent with the foregoing, licensees may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.

G. Interaction with other licenses.

(1) Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of other licensees.

(2) Licensees in private practice shall not review the work of another licensee for the same client, except with the knowledge of such licensees, or unless the connection of such licensee with the work has been terminated.

(3) Licensees in governmental, industrial, or educational employment are entitled to review and evaluate the work of other licensees when so required by their employment duties.

[16.39.8.9 NMAC - Rp, 16 NMAC 39.8.9, 1/01/2002; A, 7/1/2015]

HISTORY OF 16.39.8 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the state records center & archives under: PELS 89-2, Rules of Professional Conduct, filed 8-15-89; PE/PS Rule No. 89-2, Rules of Professional Conduct, filed 8-15-89; Rule No. 700.1, Code of Professional Conduct -Preamble, filed 10-28-94; and Rule No. 700.2, Code of Professional Conduct - Rules of Professional Conduct, filed 10-28-94.

History of Repealed Material:

16 NMAC 39.8, Code of Professional Conduct--Engineering and Surveying (filed 03-31-1998) repealed 01/01/2002.

Other History:

Rule No. 700.1, Code of Professional Conduct -Preamble (filed 10-28-94) and Rule No. 700.2, Code of Professional Conduct - Rules of Professional Conduct (filed 10-28-94) were renumbered, reformatted and replaced by 16 NMAC 39.8, Code of Professional Conduct--Engineering and Surveying, effective 04-15-1998.

16 NMAC 39.8, Code of Professional Conduct--Engineering and Surveying (filed 03-31-1998) was renumbered, reformatted and replaced by 16.39.8 NMAC, Code of Professional Conduct--Engineering and Surveying, effective 01-01-2002.



New Mexico Board of Licensure for Professional Engineers & Professional Surveyors

PO Box 25101 ▪ Toney Anaya Building ▪ Santa Fe, New Mexico 87504
(505) 476-4565 ▪ Fax (505) 476-4802 ▪ www.sblpes.state.nm.us

NM LICENSE RENEWAL GUIDE

To expedite the processing of your annual renewal, take note of the following information, which is addition to the information provided on the renewal reminder postcard.

Incomplete, illegible, or incorrect information will cause delays in processing your application.

ONLINE RENEWAL

To renew online: <https://pepsrenewal.rld.state.nm.us/PersonSearchResults.aspx>

If this is your first time renewing online, read the instructions and answers to frequently asked questions about online renewal. Your Renewal ID number is posted on the front of the renewal notice postcard next to your name and address or you can request this ID number from the Board office. To register online, the key points to remember are.

- You must **register** the first time you use the online process.
- An e-mail address is required so you can receive confirmation of your renewal application.
- A credit card is required for payment. Visa and MasterCard are the only credit cards accepted.

FEES

The renewal fees for license renewal are the following:

PE License: \$180.00

PS License: \$180.00

PEPS (Dual) License: \$360.00

Fees are non-refundable.

RENEWAL DEADLINE

Note that the renewal deadline is December 31st.

LATE FEE

- **You will be assessed a penalty fee at 12:01 a.m. on January 1st.**
- Any renewal applications postmarked after the expiration date of the license will be charged a late fee. The penalty renewal fee is double the renewal fee: \$180 for single license and \$360 for dual license.
- **The late fee period deadline is March 1st.** You will have to **REINSTATE** your license after March 1st.

EXPIRED LICENSE

Remember that it is unlawful to practice in New Mexico with an expired license. There is **NO PENALTY FEE GRACE PERIOD**. The expiration date of your license is printed on the pocket card and small certificate. A license not renewed by the expiration date is expired. A license cannot be renewed without renewing, payment of the renewal fee, AND the required penalty renewal fee. Practicing without a license is punishable by fine or imprisonment, or both.

NM LICENSE RENEWAL GUIDE

It is the responsibility of the licensee to notify the office of any address and/or name changes. As a courtesy, the Board office mails a renewal postcard to all current licensees at least 30 days prior to the expiration date of the license. However, the licensee is responsible for knowing when their license expires. It is NOT the responsibility of the office to verify that you receive a renewal notice. If you prefer to use a paper renewal form, you can request one from the Board office by calling **(505) 476-4565**. Please be advised paper renewal forms are being phased out and will no longer be available in the near future.

CONTINUING EDUCATION

REQUIREMENTS

In accordance with Title 16, chapter 39, Part 2 of the New Mexico Administrative code, all licensees must acquire **30 Professional Development Hours (PDHs)**, of those at least **2 shall be in ethics** during the two-year reporting period as a condition for license renewal. Failure to meet the PDH requirements will result in rejection of renewal.

CARRY-OVER HOURS

- The maximum hours that can be carried over are fifteen (15).
- There is no carry-over of ethic hours. More than 2 hours in ethics will only count towards the general total required 30 PDHs.

PROOF OF ATTENDANCE AND COMPLETION IS ALWAYS REQUIRED IF—

- ***You are being audited. You may not renew online if you are being audited.*** You must mail your CE certificates of attendance along with a paper renewal form to the Board office. The renewal form is available from the Board Office. Submit proof of attendance ***for the current renewal year only.***
- Be sure your **Certificates of Attendance** include the following:
 - Your name
 - Name of the program attended
 - Dates attended
 - Number of contact hours or continuing education units
 - Signature of the program sponsor

QUALIFYING PDH ACTIVITIES

- Must have taken place during the reporting period (**January 1, 2014 through December 31, 2015**)
- **New Licensees:** PDHs are only eligible from the date of initial license to the expiration date.
- Must have a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the practice of engineering or surveying (courses taken only for personal use would not qualify)
- May include technical, ethical, or managerial content
- Should advance the professional or technical competence of the licensee
- May be sponsored by employers, government agencies, nationally affiliated engineering or surveying technical or professional societies, colleges or universities, or other organizations
- May be earned in any jurisdiction
- All other activities must comply with Title 16.39.2 of the Professional Development rules.

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The Board does not pre-approve courses for PDH credit; it is the licensee's responsibility to ensure that activities meet the professional development requirements and that they are beneficial to the licensee.

DETERMINATION OF PDH CREDIT

- The Board has final authority with respect to approval of activities and PDH value for all activities.
- Dual licensees (individuals holding licenses as a PE and PS) are required to submit a total of 30 PDHs. The Board recommends PDH units be obtained in licensee's area of practice. If you have two licenses, you will renew both in the same year, contact the Board office if you have questions.
- A PDH credit is roughly equivalent to one clock hour of instruction and should be rounded to the nearest half-hour. The following table summarizes the PDH credits for various activities:

TYPE OF ACTIVITY	PDH CREDIT
Active participation in seminars, courses, in-house programs, workshops, training, professional conventions, correspondence or videotaped courses	1 hour = 1 PDH
Successful completion of college courses relevant to engineering and surveying.	1 SEMhr= 45PDH 1 QTRhr= 30PDH
Successful completion of courses offering CEU credit	1 CEU = 10 PDH
Teaching or instructing above courses/activities for the first time only (earns same PDH credits for the instructor as for the students) Apply x 2	1 hour = 2 PDH
Authoring a published paper, article, or book	10 PDH
Active participation in professional and technical societies (each organization)	2 PDH/year
Each patent	10 PDH
1 hour of literature review	1 PDH (Max 6 PDH)
Each civic or community activity	1PDH (Max 4 PDH)
1 hour of ethics training	1 PDH (Max 4 PDH)

CLARIFICATION OF ACTIVITIES

- Audited Courses - earn PDHs for contact hours only (actual time spent in classroom)
- Ethic courses – **laws pertaining to another jurisdiction are not eligible as an ethic course**, the course may be considered as a general PDH.
- Videotaped/Correspondence Courses or Instructional Computer Software (self-taught tutorials)
 - acceptable if appropriate progress/completion documentation is provided to participants
 - would not qualify on an individual basis (no means of verifying progress/completion)
 - may be eligible if presented in a group/formal setting
- One CEU is defined as 10 contact hours of participation in an organized continuing education course under responsible sponsorship, capable direction, and qualified instruction.
- Conferences - receive PDHs for number of hours attending professional/technical sessions
- Presentations by Product/Equipment Vendors & Factory/Plant Tours are eligible only if
 - presentations are of a technical nature and not just a sales demonstration
 - part of a formal training session; not normally obtained in the course of licensee's work
- Published Papers, Articles, Books - may earn credit for authoring or co-authoring only; reviewing and editing of documents would not qualify.
- Professional/Technical Societies
 - may receive 2 PDH/year for active participation (serving as an officer or on a working committee and not just a dues-paying member)
 - may earn PDHs for attending individual meetings of an organization when an

NM LICENSE RENEWAL GUIDE

engineering/surveying related topic is presented as a principal part of the program

- attending regular committee and business meetings would not qualify

[Recommendation:

- **The following activities are not eligible:** personal self-improvement courses, regular employment, task forces/committees within a firm (considered part of employment), service club meetings or activities, tutoring students or assisting in a school's computer lab.

EXEMPTIONS

- **New Licensees** - Exempt from the professional development requirements for the first 12 months directly following the issuance of license number; PDHs will be prorated for any remaining portion of the licensing period beyond one year: 1.25 x remaining months. (**New Licensees: PDHs are only eligible from the date of your initial license to the expiration date.**)
 - *Example: For an **odd license number issued** on 4/30/12, the licensee is exempt of PDHs until 4/30/13. To renew the license in December 2013 (through 12/31/13) the licensee must submit, by 12/31/13, 10 prorated PDHs acquired in 2013 [8 mos. (5/01/13 to 12/31/13) x 1.25 PDHs per mo. = 10 PDHs]. If the **odd** license number is issued on 12/14/12, the licensee is exempt of PDHs until 12/14/13 and to renew the license in December 2013 (through 12/31/13) only the affidavit statement with the 'new licensee exemption request' box checked & fee must be submitted by 12/31/13.*
 - *Example: For an **even license number issued** on 4/30/13, the licensee is exempt of PDHs until 4/30/14. To renew the license in December 2014 (through 12/31/14) the licensee must submit, by 12/31/14, 10 prorated PDHs acquired in 2014 [8 mos. (5/01/14 to 12/31/14) x 1.25 PDHs per mo. = 10 PDHs]. If the **even** license number is issued on 12/14/13, the licensee is exempt of PDHs until 12/14/14 and to renew the license in December 2014 (through 12/31/14) only the affidavit statement with the 'new licensee exemption request' box checked & fee must be submitted by 12/31/14.*
 - **New Licensees:** As a reminder, PDHs are only eligible from the date of your initial license to the expiration date.
- **Active Duty Military Service** - A licensee called to active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a calendar year may be exempt from obtaining PDHs required during that year (would **not** apply to regular military career assignments). Please provide documentation showing exact dates and locations of active duty.
- **Physical Disability** - Licensees experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board may be exempt. Please contact the Board office for an Application for Medical Exemption. Remember, "If you can work, you can earn PDH credits."
- **Retired or Inactive Status** - Licensees approved by the Board for Retired or Inactive Status shall be exempt from professional development requirements. A request to return to active status requires submittal of PDHs for the preceding biennial cycle. Refer to Title 16.39.1.17. A NMAC regarding the requirements for retired status. Refer to Title 16.39.1.17. D NMAC regarding the requirements for inactive status. If you qualify for retired or inactive status and have not been previously approved by the Board, please contact the Board office for the proper application forms or download an application from the Board's website at www.sblpes.state.nm.us

NM LICENSE RENEWAL GUIDE

INSTRUCTIONS & CHECKLIST FOR COMPLETING A RENEWAL FORM:

(Please be advised, paper renewals are being phased out and will no longer be available at a future date.)

- ☐ **NAME & ADDRESS:** Please correct your name and mailing address if necessary.
- ☐ **FEES:** The Board accepts credit card payments for renewals. If you use a check or money order, please enclose the **total amount due** as printed on the renewal form payable to: **NM Board for PE/PS**. Be sure your name and license number are included on your check and enclose the completed license renewal statement, which includes the affidavit, with your fee. **Fees are non-refundable. The renewal due date is December 31st. You will be assessed a penalty fee on January 1st.**
- ☐ **PROFESSIONAL DEVELOPMENT:** **The biennial requirement is 30 hours. Of those hours, 2 are required in ethics.** A maximum of 15 PDHs may be carried over to the next biennium. Please refer to 16.39.2 NMAC – 2006 Professional Development for other information. **KEEP VERIFYING DOCUMENTATION WITH YOUR RENEWAL RECORDS. DO NOT SUBMIT WITH YOUR RENEWAL.** [Refer to Title 16.39.2.8.G NMAC: Record Keeping]
- ☐ **EXEMPTION REQUEST:** If you are asking for an exemption because of 1) active duty military service, give the exact dates and locations; or 2) physical disability, contact the Board office for an Application for Medical Exemption.
- ☐ **RETIRED or INACTIVE STATUS APPLICATION:** Refer to Title 16.39.1.17 NMAC regarding the requirements for retired status, inactive status and documentation required to return to practice. Applications for these statuses may be downloaded from the Board's website at www.sblpes.state.nm.us/cpc.html. **Retired and inactive status must be requested prior to licensure expiration and the 60 day grace period.**
- ☐ **YES TO CONVICTION QUESTION AND/OR BOARD DISCIPLINARY QUESTION:** Provide complete and full detail on a separate sheet to include but not limited to: Name and location of court or licensing board administering disciplinary action, date and type of disciplinary action, i.e. fine, imprisonment, sanction, suspension of license, revocation of license, other type of disciplinary action.
- ☐ **SIGNATURE: YOUR RENEWAL CANNOT BE PROCESSED WITHOUT YOUR COMPLETED LICENSE RENEWAL STATEMENT/ ORIGINALLY SIGNED AFFIDAVIT AND PAYMENT.**
- ☐ **KEEP A COPY OF THE COMPLETED FORM FOR YOUR RECORDS.**
- ☐ **IF THE LICENSE IS NOT RENEWED BY MARCH 1ST WITH TWICE THE RENEWAL FEE (LATE PENALTY), A NEW APPLICATION WILL BE REQUIRED TO REINSTATE YOUR LICENSE.**

For additional information, please contact the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors at (505) 476-4565.

ADVISORY OPINIONS - ENGINEERING & SURVEYING

PE/PS Advisory: Public Work Involving Engineering and Surveying Services

Surveying and engineering services for public work whose value exceeds \$100,000 are governed by the New Mexico Engineering and Surveying Practice Act. The plans and specifications for the project must be prepared by a licensed professional engineer (Section 61-23-26.) and the surveying services must be performed by a licensed professional surveyor (Sections 61-23-26. and 61-23-27.13.). The Practice Act also provides for some overlap between the professions. The clear intent of the above cited sections is to provide for professional oversight of public work valued at more than \$100,000.

PE/PS Advisory: Review of Plans, Plats, or Engineering or Surveying Documents by Public Officials

The New Mexico Engineering and Surveying Practice Act, Sections 61-23-1 through 61-23-32 NMSA (1978), hereafter referred to as "the Act," defines the practice of engineering and surveying and who may engage in these practices. Persons performing acts or services described in the respective sections for engineering and surveying are required to be licensed as professional engineers or professional surveyors.

The review and approval of plans, maps, plats, reports and descriptions by public officials serves a multi-purpose function. In essence, reviewers enforce building code requirements that have been promulgated to protect the public's health and safety, which may or may not include professional engineering or surveying functions. A determination of whether a public employee's review and approval of plans, maps, plats, etc. constitutes the practice of engineering or surveying depends on the type of activity which is rendered by the public official. If while performing a review/approval function for code compliance, a public official engages in one of the activities described in the "Act" and that official is not a licensed professional nor is supervised by a licensed professional that public official would be in violation of the Act.

This advisory opinion is to clarify that non-licensed individuals cannot override or modify engineering or surveying documents prepared by licensed individuals unless such actions are concurred in by the licensee of record, and that said licensee takes full responsibility for such a decision.

[Approved 11/2/01]

PE/PS Advisory: Signatures/Electronic Signatures

Subject to the requirements of the Board's rules [16.39.3.12 NMAC & 16.39.5.11 NMAC], a licensee may affix an electronically generated signature and date of signature to documents; provided, however, that the licensee utilizes a secure method of affixation and provided that the registrant does not authorize any other person to so affix his signature and date in accordance with state statutes (Uniform Electronic transactions Act which applies only to transactions between parties each of which has agreed to conduct transactions by electronic means).

Signatures - the term "signature," as used in the Board's Administrative Code, shall mean handwritten or digital as follows:

1. A handwritten identification that represents the act of putting one's name on a document to attest to its

validity. The handwritten identification must be:

- a. Original and written by hand;
- b. permanently affixed to the document(s) being certified;
- c. Applied to the document by the identified licensee; or

2. A digital identification that is an electronic authentication process attached to or logically associated with an electronic document. The digital identification must be:

- a. Unique to the person using it
- b. Under the sole control of the licensee using it
- c. Linked to a document in such a manner that the digital identification is invalidated if any data in the document is changed

Drawings, reports, or documents that are signed using a digital signature, as defined above, shall contain the following:

- a. Authentication procedure
- b. A list of the hardware, software, and parameters used to prepare the documents(s)

[Approved 11/2/01]

PE Advisory: Electronic Files Not Electronically Authenticated

Suggested language for inclusion in electronic files (approved by Board on 9/14/00):

"Absence of a seal, signature and date indicates this document is not the original. This media should not be considered a certified document. This document was originally issued and sealed by (name of sealer), (license number), on (date of sealing)."

[Approved 9/14/00]

ADVISORY OPINIONS - SURVEYING

PS Advisory: Acceptable Qualifying Surveying Experience

The New Mexico Engineering and Surveying Practice Act (hereafter referred to as "Act") requires a graduate of a board-approved related science curriculum of at least four years, to be considered for certification as a surveyor intern, to have a specific record of four years of combined office and field board-approved surveying experience obtained under the direction of a licensed professional surveyor [for licensure as a professional surveyor].

The Act requires a graduate of a four-year board-approved surveying curriculum to have at least four years of approved surveying experience [for licensure as a professional surveyor].

The Act requires a graduate of a board-approved four-year related science curriculum to have a total of eight years (includes the 4 years for as Surveyor Intern) of approved surveying experience [for licensure as a professional surveyor].

The applicant's experience must, at a minimum, include three years of increasingly responsible experience in boundary surveying with a total of four years of increasingly responsible experience under the direct supervision of a licensed professional surveyor.

Increasingly responsible experience is to be found in the following five major elements of professional surveying.

Examples of Qualifying Experience

1. Research (13%)

- a. Research record survey files and indices.
- b. Research governmental records, rules, regulations, and statutes.
- c. Research deeds

2. Legal Principles/Reconciliation (20%)

- a. Identify boundary line discrepancies.
- b. Reconcile records and field evidence.
- c. Determine boundary line locations.

3. Computations/Analyses (25%)

- a. Analyze existing control.
- b. Verify field notes for completeness and accuracy.
- c. Compute coordinate values.
- d. Compute areas.
- e. Prepare work sheets of surveys for final drafting/boundary determinations.
- f. Compare research records with field data.

4. Documentation/Land Information Systems/Monumentation (14%)

- a. Prepare boundary survey maps.
- b. Prepare land descriptions.

5. Measurements/Locations (28%)

- a. Locate existing monumentation
- b. Perform angular and linear measurements
- c. Perform boundary surveys of vacant and/or improved parcels
- d. Retrace boundary lines.

Increasingly responsible experience is that experience which is also progressive experience. The board is to require progressive experience, not one year of experience repeated several times.

Responsible Office Experience

"Responsible office experience" includes, but is not limited to, the land surveying activities listed below. Under the responsible charge, direction, and review of a person legally authorized to practice surveying, the applicant:

1. Assists in the planning, directing, and analyzing necessary for the preparation of surveys, plats, and related documents.
2. Reduces and evaluates field data.
3. Develops procedures and systems for the collection, reduction, adjustment, and use of land surveying data.
4. Prepares data to be used by field surveyors or field crews.
5. Coordinates the preparation and processing of maps, plats, reports, descriptions, or other documents.
6. Researches records to obtain survey and title data.
7. Performs boundary analysis and reconciles records and field evidence to identify boundary lines' discrepancies.

The enumeration of the above tasks does not preclude the board from awarding credit for unenumerated training of a similar character in current or future surveying activities. It is also understood that the listed tasks are only some of those which may be considered as responsible training, and that this list is not in any way intended to enumerate all of the tasks, which may be performed by licensed professional surveyors.

Responsible Field Experience

Responsible field experience includes, but is not limited to, the land surveying activities listed below. Under the responsible charge, direction, and review of a person legally authorized to practice surveying, the applicant:

1. Assists in determining field survey methods and procedures, including selection of accuracy standards.
2. Selects or verifies that the correct control monumentation is used to establish the survey datums (horizontal and vertical) and selects "on the ground" locations for control monuments.
3. Inspects monumentation in the field and/or examines field evidence for the determination and identification of physical evidence.
4. Reviews measurements observations with the responsibility for accuracy, completeness, and consistency.
5. Reviews, learns procedures for and prepares field notes and records for proper application of field survey procedures.
6. Plans field checks, reviews field checks, and, based on such checks, determines if completed field survey plats are accurate and sufficient.
7. Searches for boundary and control monuments; assists in analyzing field evidence for locating boundary points and lines; identified and describes such evidence; compares record data to found physical evidence; compares record data to measured data, documents discrepancies; assists in acquiring and documenting testimony regarding boundary locations; recommends boundary locations and/or establishment; selects or verified that the correct controlling monuments are used to locate or establish boundary points and lines.
8. Recommends when existing boundary monuments are to be replaced; selects the methods to be used for replacing and resetting monuments.
9. Functions as a "party chief," "chief of parties," or lead person in charge of field surveyors or field crews.

[NCEES]

PS Advisory: Certification and Registration as a Professional Surveyor by Endorsement/Comity

Section 61-23-27.4 E. states:

"If otherwise qualified, an applicant may be registered if he is currently registered as a professional surveyor in:

(1) the District of Columbia, another state, territory or possession of the United States, provided that: (a) registration does not conflict with the provisions of the Engineering and Surveying practice Act and that the standards required by the registration or the applicant's qualifications equaled or exceeded the registration standards in New Mexico at the time the applicant was initially registered; and"

Therefore, out-of-state applicants must demonstrate that they met or exceeded New Mexico's requirements when they were initially registered as professional surveyors in their home state.

New Mexico Surveyor Interns who were certified by June 30, 1995 may continue to complete the PS registration in New Mexico without having to obtain a four-year degree under the current Act. Therefore, out-of-state applicants must demonstrate that they met or exceeded New Mexico's requirements when they were initially certified as a Surveyor Intern in their home state.

If applicants did not meet New Mexico's requirements when they were initially licensed or certified in another state, they shall meet New Mexico's current requirements. [Approved 10/29/98]

PS Advisory/Guidelines for Evaluating Academic Qualifications:

Section 61-23-27.4. Requires for certification as a surveyor intern and licensure as a professional surveyor the following education:

1. Completion of a board-approved, four-year curriculum in surveying; or
2. Completion of a board-approved, four-year related science curriculum

The Board may approve related science curriculums if they include, or are augmented by eighteen (18) additional semester hours of surveying related courses. These curriculums will be evaluated by the Board on an individual basis. The additional eighteen (18) semester hours may be obtained by completing courses from the following recommended list:

1. Plane Surveying*
2. Photogrammetry and Mapping
3. Legal Principles of Surveying*
4. Advanced Surveying*
5. Cartography
6. Surveying Practicum (work program)
7. Introduction to Remote Sensing
8. Survey Measurements, Analysis and Adjustments*
9. Introduction to Geodesy
10. Global Positioning Systems
11. Principles and Practices of Construction Surveying
12. Land Development Design

Twelve (12) of the eighteen (18) semester hours shall be obtained by completing those courses marked with an asterisk (*). The remaining semester hours may be obtained by completing any of the remaining courses.

[Rev. 6/14/01]

ADVISORIES - ENGINEERING

NEW - PE Advisory: Use of Seal on Certain Federal Plans/Certifications

Several federal programs and regulations (e.g. 40 CFR 112, 40 CFR 60.5360, 40 CFR 60.5360a) require the seal of a registered professional engineer for certain plans and/or certifications. In some cases, these regulations specify that the engineer needs to be registered in the state where the subject facility is located, while other regulations are less clear, or even state that the federal government does not have a position. Regardless of the federal regulation, if the practice of engineering is completed on a facility located within the geographic jurisdictional limits of the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors, this document shall be sealed by a professional engineer duly licensed in the State of New Mexico. In addition, if a seal is not required on such a document, but the choice is made by the preparer to either seal the document or represent themselves as an engineer, that preparer must be a professional engineer duly licensed in the State of New Mexico, notwithstanding the allowances provided by NMSA 61-23-22.B.

[Approved 8/11/16]

PE Advisory: Use of Standard Detail Drawings

Q: If a revision/modification is made to a standard detail does the entire detail need to be re-stamped, or just the portion that's been revised/modified?

A: Title 16, Chapter 39, Part 3, Section 12 states:

"A. Each licensed professional engineer shall obtain a seal/stamp, which must appear on all design drawings, and the certification page of all specifications and engineering reports prepared by the licensee in responsible charge."

"E. For the purposes of the Engineering and Surveying Practice Act, a licensee of this board has "responsible charge of the work" as defined in Section 61-23-3 (M), NMSA 1978 and may sign, date and seal/stamp plans, specifications, drawings or reports which the licensee did not personally prepare when plans, specifications, drawings or reports have been sealed only by another licensed engineer, and the licensee and/or persons directly under his personal supervision have reviewed the plans, specifications, drawings or reports and have made tests, calculations or changes in the work as necessary to determine that the work has been completed in a proper and professional manner."

Yes, if the details are revised/modified the engineer in charge of the revision/modification will need to take responsibility for the entire detail.

[Approved 4/19/15]

PE Advisory: Electronic Files Not Electronically Authenticated

Suggested language for inclusion in electronic files (approved by Board on 9/14/00):

"Absence of a seal, signature and date indicates this document is not the original. This media should not be considered a certified document. This document was originally issued and sealed by (name of sealer), (license number), on (date of sealing)."

[Approved 9/14/00]

PE Advisory: Certification as an Engineer Intern and Registration as a Professional Engineer by Endorsement/Comity

Section 61-23-14.1 D. states: "An applicant may be registered by endorsement or comity if:

(2) He is currently registered as an engineer in the District of Columbia, another state, a territory or a possession of the United States, provided the registration does not conflict with the provisions of the Engineering and Surveying Practice Act and that the standards required by the registration or the applicant's qualifications equaled or exceeded the registration standards in New Mexico at the time the applicant was initially registered; or

(3) He is currently registered as an engineer in a foreign country and can demonstrate, to the board's satisfaction, evidence that the registration was based on standards that equal or exceed those presently required for registration by the Engineering and Surveying practice Act and can satisfactorily demonstrate to the board his competence in current engineering standards and procedures."

Title 16, Chapter 39, Part 3, Section 13 states:

"13.1 For the purpose of New Mexico registrants by endorsement from other states, or possessions, the Professional Engineering Committee will only recognize registration granted by those authorities when the Professional Engineering Committee has determined that the applicant possesses qualifications which "do not conflict with the provisions of the Engineering and Surveying practice Act and are of standards not lower than that specified in Sections 61-23-14 and 61-23-14.1, NMSA 1978". Conditions establishing eligibility for registration by endorsement shall have been met at the time of initial registration. Additionally, the applicant must have a current registration in another state. Conditions for endorsement for registration as a Professional Engineer shall be as follows:"

Therefore, out-of-state applicants must demonstrate that they met or exceeded New Mexico's requirements when they were initially registered as professional engineers in their home state.

If applicants did not meet New Mexico's requirements when they were initially licensed or certified in another state, they shall meet New Mexico's current requirements.

PE Advisory: Non-engineering Graduates Enrolled in a Master of Engineering Program - FE Examination

Section 61-23-14 establishes when an engineering student may sit for the FE examination:

"A. An applicant for certification as an engineer intern shall file the appropriate application that demonstrates that he:

...

(2) Has obtained at least a senior status in a board-approved, four-year curriculum in engineering or in a board-approved, four-year curriculum in engineering technology that is accredited by the technical accreditation commission of the accreditation board for engineering and technology; and..."

Rule 16 NMAC39.3.7.1.4 defines a master of engineering degree as a "board-approved" engineering curriculum:

"Graduate degree (master or doctoral) from an engineering program where the bachelor's degree is ABET-accredited and the candidate has completed all the BS deficiencies (confirmation letter from graduate committee), even though the applicant's bachelor's degree was earned in a non-engineering program."

Therefore, a graduate who is working toward a graduate degree in an engineering program where the bachelor's degree is ABET-accredited, may be approved to sit for the FE examination prior to completing the master/doctoral degree provided there is verification from the Advisor/Professor that the graduate has completed all B.S. deficiencies and the applicant has provided the Board with an official transcript. Completion of the following minimum number of engineering credits will ensure that all academic deficiencies have been met: 32 semester or 48 quarter credit hours in math/science including 12 semester credits of calculus terminating with differential equations; 32 semester or 48 quarter credit hours of engineering science; 16 semester or 24 quarter credits of engineering design; and 16 semester or 24 quarter credits of humanities/social science).

The candidate's application, Advisor/Professor verification, and the official transcript will be reviewed by the board to ensure the candidate has obtained the equivalency of at least senior status.

These applicants shall submit their application to sit for the FE examination on the short form.

[Approved: 03/16/00]